

AMENDED IN ASSEMBLY APRIL 10, 1996

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 3473

**Introduced by Committee on Consumer Protection,
Governmental Efficiency, and Economic Development
(Assembly Members Morrissey (Chairman), Baldwin,
Firestone, Knight, Thompson, and Woods)**

March 6, 1996

An act to amend Sections 110, 2467, 2601, 2602, 2603, 2604, 2604.5, 2605, 2606, 2607, 2607.5, 2608.5, 2609, 2611, 2612, 2613, 2614, 2615, 2620.3, 2620.5, 2630, 2632, 2633, 2634, 2636, 2636.1, 2636.5, 2637, 2638, 2639, 2650, 2650.1, 2651, 2652, 2653, 2655, 2655.1, 2655.2, 2655.3, 2655.4, 2655.5, 2655.6, 2655.7, 2655.71, 2655.8, 2655.9, 2655.91, 2655.92, 2660, 2661, 2661.5, 2662, 2663, 2664, 2665, 2666, 2667, 2668, 2669, 2672, 2680, 2682, 2684, 2685, 2687, 2688, 2688.5, 2689, 2690, 2696, 2987.5, 3356, 3360, 3401, 3427.5, 3901, 3902, 3924, 3930.5, 4980.03, 4980.40, 4984.5, 4984.6, 4987.5, 4990.1, 4990.2, 4990.15, 4994, 4996.3, 4996.6, 4998, 6795.1, 8516, 8522, 8550, 8564.5, 8614, 8617, 8622, and 8675 of, to add ~~Section 8656 to, and to repeal Sections 3924.5, 3930.1, 4940.1, 4940.2, Sections 8656 and 8666 to, and to repeal Sections 2490, 3924.5, 3930.1, 4940.1, 4940.2, 4940.3, and 4990.17 of, the~~ Business and Professions Code, relating to businesses and professions.

LEGISLATIVE COUNSEL'S DIGEST

AB 3473, as amended, Committee on Consumer Protection, Governmental Efficiency, and Economic Development. Businesses and professions.

(1) Existing law prohibits the Department of Consumer Affairs from having possession and control of examination questions prior to submission to applicants at scheduled examinations.

This bill would create an exception to the prohibition if authorized by one of the boards within the department.

(2) Under existing law, the practice of podiatric medicine is regulated by the California Board of Podiatric Medicine, which is required to convene its annual meetings in or near either Sacramento, Los Angeles, or San Francisco, but is otherwise permitted to hold meetings at places and times the board deems necessary.

This bill would permit the board to convene any of its meetings at times it deems necessary.

Existing law places limitations on the frequency with which an applicant for a certificate to practice podiatric medicine who fails to pass the oral and practical examination after two examinations may be eligible for reexamination.

This bill would repeal that provision.

(3) Under existing law, known as the Physical Therapy Practice Act, the Physical Therapy Examination Committee of California regulates the licensure and practice of physical therapy.

This bill would change the name of the Physical Therapy Examination Committee of California to the Physical Therapy Board of California and make technical, conforming changes to the Physical Therapy Practice Act so that specific terms used in the act are consistent throughout.

(4) Under existing law, the Hearing Aid Dispensers Examining Committee oversees the licensing, and administers the regulation, of individuals who engage in the practice of fitting and selling hearing aids. Under existing law, the committee is required to administer both a written and practical examination of persons who apply for a license to fit or sell hearing aids and is required to hold examinations at least twice a year. In addition, the committee is authorized to



issue temporary licenses to persons who are licensed in other states when the persons supply specified information. These persons are required to take the first licensing examination offered by the committee after they have held the license for 90 days.

This bill would require that the committee hold a practical examination twice a year.

The bill would require that persons who hold a temporary license on the basis of being licensed in another state take a written examination within 90 days after the date the temporary license is issued.

The bill would authorize the committee to deny, issue subject to terms and conditions, suspend, or revoke a license, or impose conditions of probation upon a licensee, for violation of any regulation adopted pursuant to the law regulating hearing aid dispensers.

(5) Under existing law, the State Board of Nursing Home Administrators administers the provisions of the Nursing Home Administrator's Licensing Act. Existing law provides that it is a misdemeanor for any person to act or serve in the capacity of nursing home administrator without a license. Existing law requires a holder of a license to reregister biennially. Under the act, the board is required, among other things, to establish standards for the operation of nursing homes, as defined, issue and revoke licenses for the administration of nursing homes, and submit reports to the Legislature concerning the administration of nursing homes. The act has required the board in the past to submit specified reports and studies to the Legislature by specified dates. The act also prohibits nursing home administrators whose licenses have been suspended from being employed as administrators of long term health care facilities.

This bill would change the name of the act to the Nursing Home Administrator's Act.

The bill would change the definition of "nursing home" for purposes of the act. By changing the definition of a crime, the bill would impose a state-mandated local program.

The bill would require license renewal instead of reregistration and would require a statement under penalty of perjury whether the licensee was convicted of a crime

during the preceding renewal period. By creating a new crime, the bill would impose a state-mandated local program.

The bill would repeal provisions of the act that require the board to submit reports to the Legislature that have since been submitted.

The bill would delete the provisions of the act that prohibit nursing home administrators whose licenses have been suspended from being employed as administrators of long term health care facilities and instead prohibit these persons from being employed as administrators of nursing homes.

(6) Under existing law, the Acupuncture Committee, which exists within the Division of Licensing of the Medical Board of California, administers the Acupuncture Licensing Act. Among other things, the Acupuncture Committee is required to conduct evaluations of acupuncture tutorial programs and to conduct evaluations and develop regulations that specify the requirements that must be met by foreign-trained applicants for licensure as acupuncturists.

This bill would repeal the provision that requires the Acupuncture Committee to conduct these evaluations and develop these regulations.

(7) Existing law establishes the Board of Behavioral Science Examiners and the Behavioral Science Examiners Fund.

This bill would change the names to the Board of Behavioral Sciences and the Behavioral Sciences Fund.

Existing law authorizes the board, in any order issued in resolution of a disciplinary proceeding before the board, to request the administrative law judge to direct any registrant or licensee found to have violated or to be in violation of certain charges to pay to the board a sum not to exceed the actual and reasonable costs of the investigation and prosecution, as prescribed, and specifies procedures to enforce an order for payment. Existing law prohibits the board from renewing or reinstating the license or registration of, or from accepting any petition for reinstatement or modification of probation from, any licensee or registrant who has failed to pay all of the costs ordered, except under prescribed conditions where a financial hardship has been demonstrated. Existing law requires all costs recovered to be

deposited into the Behavioral Science Examiners Fund, which is continuously appropriated to the board.

This bill would repeal these provisions.

(8) Under existing law, the State Board of Registration for Professional Engineers and Land Surveyors is required to send a second notice by certified or registered mail to a registrant's or authority holder's address if there is no response to the first notice regarding expiration of a certificate of registration or certificate of authority.

This bill would delete the requirement that the second notice be by certified or registered mail.

(9) Under existing law, persons who engage in various facets of structural pest control are required to be licensed and their activities in the area of structural pest control are regulated. Existing law provides that violation of the law governing structural pest control is subject to specified criminal penalties.

Among the persons licensed and regulated are applicators of specified types of chemical fumigants used in pest control. Under existing law, applicators, once licensed, are permitted to apply specified chemical fumigants for a period of 3 years, after which they are required to apply for renewal of their license and pass a written examination.

Existing law permits specified governmental agencies to levy fines for violations of the restrictions on structural pest control activities.

This bill would clarify that it is unlawful for an applicator to act in that capacity without being licensed and delete the requirement that applicators apply to renew their licenses and pass a written examination every 3 years.

The bill would place restrictions, as specified, on persons who fail to pay fines levied for violation of these provisions.

The bill would provide that it is unlawful for any licensee to recommend or perform any pest control corrective work under any contract or agreement that the licensee knows or has reason to know is in excess of that required to eliminate the condition for which the licensee was employed.

The bill would make technical, conforming changes to the structural pest control laws.

The bill would impose a state-mandated local program by imposing criminal penalties on certain persons who violate the provisions of the bill.

~~(9)–~~

(10) This bill would make other technical changes.

~~(10)–~~

(11) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 110 of the Business and
2 Professions Code is amended to read:

3 110. The department shall have possession and
4 control of all records, books, papers, offices, equipment,
5 supplies, funds, appropriations, land and other
6 property—real or personal—now or hereafter held for
7 the benefit or use of all of the bodies, offices or officers
8 comprising the department. The title to all property held
9 by any of these bodies, offices or officers for the use and
10 benefit of the State, is vested in the State of California to
11 be held in the possession of the department. Except as
12 authorized by a board, the department shall not have the
13 possession and control of examination questions prior to
14 submission to applicants at scheduled examinations.

15 SEC. 2. Section 2467 of the Business and Professions
16 Code is amended to read:

17 2467. (a) The board may convene from time to time
18 as it deems necessary.

19 (b) Four members of the board constitute a quorum
20 for the transaction of business at any meeting.

21 (c) It shall require the affirmative vote of a majority of
22 those members present at a meeting, such members



1 constituting at least a quorum, to pass any motion,
2 resolution, or measure.

3 (d) The board shall annually elect one of its members
4 to act as president and a member to act as vice president
5 who shall hold their respective positions at the pleasure
6 of the board. The president may call meetings of any duly
7 appointed subcommittee at a specified time and place.

8 SEC. 3. *Section 2490 of the Business and Professions*
9 *Code is repealed.*

10 ~~2490. Notwithstanding Section 135, an applicant for a~~
11 ~~certificate to practice podiatric medicine who fails to pass~~
12 ~~the oral and practical examination after two examinations~~
13 ~~shall not be eligible to be reexamined until at least one~~
14 ~~year has elapsed from the date of the second failed~~
15 ~~examination; and an applicant who fails a third~~
16 ~~examination shall not be eligible to take the examination~~
17 ~~a fourth time until two years have lapsed from the date~~
18 ~~of the third examination. Thereafter, the examination~~
19 ~~may not be taken more frequently than once in two years.~~

20 SEC. 3.5. *Section 2601 of the Business and Professions*
21 *Code is amended to read:*

22 2601. "Board" as used in this chapter means the
23 Physical Therapy Board of California.

24 SEC. 4. *Section 2602 of the Business and Professions*
25 *Code is amended to read:*

26 2602. There is hereby created within the jurisdiction
27 of the Medical Board of California, a Physical Therapy
28 Board of California, hereinafter referred to as the board.
29 The board shall enforce and administer this chapter.

30 This section shall become inoperative on July 1, 1999,
31 and, as of January 1, 2000, is repealed, unless a later
32 enacted statute, which becomes effective on or before
33 January 1, 2000, deletes or extends the dates on which it
34 becomes inoperative and is repealed.

35 SEC. 5. *Section 2603 of the Business and Professions*
36 *Code is amended to read:*

37 2603. The members of the board consist of the
38 following: three physical therapists who shall have
39 practiced physical therapy for five years and shall be
40 licensed by the board and three public members who

1 shall not be licentiates of the board or of any other board
2 under the Medical Board of California or of any board
3 referred to in Sections 1000 and 3600.

4 SEC. 6. Section 2604 of the Business and Professions
5 Code is amended to read:

6 2604. The members of the board shall be appointed
7 for a term of four years, expiring on the first day of June
8 of each year.

9 The Governor shall appoint one of the public members
10 and the three physical therapist members of the board
11 qualified as provided in Section 2603. The Senate Rules
12 Committee and the Speaker of the Assembly shall each
13 appoint a public member, and their initial appointment
14 shall be made to fill, respectively, the first and second
15 public member vacancies which occur on or after January
16 1, 1983.

17 Not more than one member of the board shall be
18 appointed from the full-time faculty of any university,
19 college, or other educational institution.

20 No person may serve as a member of the board for more
21 than two consecutive terms. Vacancies shall be filled by
22 appointment for the unexpired term. Annually the board
23 shall elect one of its members as president.

24 The appointing power shall have the power to remove
25 any member of the board from office for neglect of any
26 duty required by law or for incompetency or
27 unprofessional or dishonorable conduct.

28 SEC. 7. Section 2604.5 of the Business and Professions
29 Code is amended to read:

30 2604.5. The public members shall be appointed from
31 persons having all of the following qualifications:

32 (a) Be a citizen of California.

33 (b) Shall not be an officer or faculty member of any
34 college, school or institution engaged in physical therapy
35 education.

36 (c) Shall not be a licentiate of the Medical Board of
37 California or of any board under this division or of any
38 board referred to in Sections 1000 and 3600.

39 SEC. 8. Section 2605 of the Business and Professions
40 Code is amended to read:

1 2605. It shall be the duty of the board to examine
2 applicants for a license as provided by this chapter, at
3 such places and at such times as shall be designated by the
4 board in its discretion. It may employ physical therapists
5 licensed pursuant to this chapter to aid it in that
6 examination. The examination shall reasonably test the
7 applicant's knowledge of physical therapy in areas such
8 as: anatomy, pathology, kinesiology, physiology,
9 psychology, physics, electrotherapy, radiation therapy,
10 hydrotherapy, massage, therapeutic exercise, physical
11 therapy as applied to medicine, neurology, orthopedics,
12 surgery, psychiatry, procedures of evaluation, testing,
13 measuring, and technical procedures in the practice of
14 physical therapy, consultation, and program planning.

15 SEC. 9. Section 2606 of the Business and Professions
16 Code is amended to read:

17 2606. Each member of the board shall receive a per
18 diem and expenses as provided in Section 103.

19 SEC. 10. Section 2607 of the Business and Professions
20 Code is amended to read:

21 2607. The board may employ, subject to law, such
22 clerical assistants and, except as provided in Section 159.5,
23 other employees as it may deem necessary to carry out its
24 powers and duties.

25 The board may as necessary select and contract with
26 physical therapy consultants who are licensed physical
27 therapists to assist it in its programs on an intermittent
28 basis. Notwithstanding any other provision of law, the
29 board may contract with these consultants on a sole
30 source basis. For the purposes of Division 3.6
31 (commencing with Section 810) of Title 1 of the
32 Government Code, any consultant under contract with
33 the board shall be considered a public employee.

34 SEC. 11. Section 2607.5 of the Business and
35 Professions Code is amended to read:

36 2607.5. The board may appoint a person exempt from
37 civil service who shall be designated as an executive
38 officer and who shall exercise the powers and perform the
39 duties delegated by the board and vested in him or her by
40 this chapter.

1 This section shall become inoperative on July 1, 1999,
2 and, as of January 1, 2000, is repealed, unless a later
3 enacted statute, which becomes effective on or before
4 January 1, 2000, deletes or extends the dates on which it
5 becomes inoperative and is repealed.

6 SEC. 12. Section 2608.5 of the Business and
7 Professions Code is amended to read:

8 2608.5. Each member of the board, or any licensed
9 physical therapist appointed by the board, may inspect,
10 or require reports from, a general or specialized hospital
11 or any other facility providing physical therapy care,
12 treatment or services and the physical therapy staff
13 thereof, with respect to the physical therapy care,
14 treatment, services, or facilities provided therein, and
15 may inspect physical therapy patient records with
16 respect to the care, treatment, services, or facilities. The
17 authority to make inspections and to require reports as
18 provided by this section shall not be delegated by a
19 member of the board to any person other than a physical
20 therapist and shall be subject to the restrictions against
21 disclosure described in Section 2263.

22 SEC. 13. Section 2609 of the Business and Professions
23 Code is amended to read:

24 2609. The board shall issue, suspend, and revoke
25 licenses and approvals to practice physical therapy as
26 provided in this chapter.

27 SEC. 14. Section 2611 of the Business and Professions
28 Code is amended to read:

29 2611. The board shall hold at least one regular
30 meeting annually in the Cities of Sacramento, Los
31 Angeles and San Francisco. The board may convene from
32 time to time until its business is concluded. Special
33 meetings of the board may be held at such time and place
34 as the board may designate.

35 SEC. 15. Section 2612 of the Business and Professions
36 Code is amended to read:

37 2612. Notice of each meeting of the board shall be
38 given in accordance with the Bagley-Keene Open
39 Meeting Act (Article 9 (commencing with Section 11120))

1 of Chapter 1 of Part 1 of Division 3 of Title 2 of the
2 Government Code).

3 SEC. 16. Section 2613 of the Business and Professions
4 Code is amended to read:

5 2613. The board may appoint qualified persons to give
6 the whole or any portion of any examination as provided
7 in this chapter, who shall be designated as a commissioner
8 on examination. A commissioner on examination need
9 not be a member of the board but shall be subject to the
10 same rules and regulations and shall be entitled to the
11 same fee as if he were a member of the board.

12 SEC. 17. Section 2614 of the Business and Professions
13 Code is amended to read:

14 2614. (a) The board shall hear all matters, including
15 but not limited to, any contested case or any petition for
16 reinstatement, restoration, or modification of probation.
17 Except as otherwise provided in this chapter, all hearings
18 shall be conducted in accordance with Chapter 5
19 (commencing with Section 11500) of Part 1 of Division 3
20 of Title 2 of the Government Code. If a contested case is
21 heard by the board the hearing officer who presided at
22 the hearing shall be present during the board's
23 consideration of the case and, if requested, shall assist and
24 advise the board.

25 (b) At the conclusion of the hearing, the board shall
26 deny an application for, or suspend or revoke, or impose
27 probation conditions upon, a license or approval.

28 SEC. 18. Section 2615 of the Business and Professions
29 Code is amended to read:

30 2615. The board shall from time to time adopt
31 regulations that may be necessary to effectuate this
32 chapter. In adopting regulations the board ~~shall comply~~
33 ~~with Chapter 4.5 (commencing with Section 11371) shall~~
34 *comply with Chapter 3.5 (commencing with Section*
35 *11340) of Part 1 of Division 3 of Title 2 of the Government*
36 *Code.*

37 SEC. 19. Section 2620.3 of the Business and
38 Professions Code is amended to read:

39 2620.3. A physical therapist licensed pursuant to this
40 chapter may apply topical medications as part of the

1 practice of physical therapy as defined in Section 2620 if
2 he or she complies with regulations duly adopted by the
3 board pursuant to this section and the Administrative
4 Procedure Act. The board shall adopt regulations
5 implementing this section after meeting and conferring
6 with the Medical Board of California and the California
7 State Board of Pharmacy specifying those topical
8 medications applicable to the practice of physical therapy
9 and protocols for their use. Nothing in this section shall be
10 construed to authorize a physical therapist to prescribe
11 medications.

12 SEC. 20. Section 2620.5 of the Business and
13 Professions Code is amended to read:

14 2620.5. A physical therapist may, upon specified
15 authorization of a physician and surgeon, perform tissue
16 penetration for the purpose of evaluating neuromuscular
17 performance as a part of the practice of physical therapy,
18 as defined in Section 2620, provided the physical therapist
19 is certified by the board to perform the tissue penetration
20 and evaluation, and provided the physical therapist does
21 not develop or make diagnostic or prognostic
22 interpretations of the data obtained.

23 The board, after meeting and conferring with the
24 Division of Licensing of the Medical Board of California,
25 shall:

26 (a) Adopt standards and procedures for tissue
27 penetration for the purpose of evaluating neuromuscular
28 performance by certified physical therapists.

29 (b) Establish standards for the certification of physical
30 therapists to perform tissue penetration for the purpose
31 of evaluating neuromuscular performance.

32 (c) Certify physical therapists meeting standards
33 established by the board pursuant to this section.

34 SEC. 21. Section 2630 of the Business and Professions
35 Code is amended to read:

36 2630. It is unlawful for any person or persons to
37 practice, or offer to practice, physical therapy in this state
38 for compensation received or expected, or to hold himself
39 or herself out as a physical therapist, unless at the time of

1 so doing the person holds a valid, unexpired, and
2 unrevoked license issued under this chapter.

3 Nothing in this section shall restrict the activities
4 authorized by their licenses on the part of any persons
5 licensed under this code or any initiative act, or the
6 activities authorized to be performed pursuant to Article
7 4.5 (commencing with Section 2655) or Chapter 7.7
8 (commencing with Section 3500).

9 A physical therapist licensed pursuant to this chapter
10 may utilize the services of one aide engaged in
11 patient-related tasks to assist the physical therapist in his
12 or her practice of physical therapy. "Patient-related task"
13 means a physical therapy service rendered directly to the
14 patient by an aide, excluding non-patient-related tasks.
15 "Non-patient-related task" means a task related to
16 observation of the patient, transport of the patient,
17 physical support only during gait or transfer training,
18 housekeeping duties, clerical duties, and similar
19 functions. The aide shall at all times be under the orders,
20 direction, and immediate supervision of the physical
21 therapist. Nothing in this section shall authorize an aide
22 to independently perform physical therapy or any
23 physical therapy procedure. The board shall adopt
24 regulations that set forth the standards and requirements
25 for the orders, direction, and immediate supervision of an
26 aide by a physical therapist. The physical therapist shall
27 provide continuous and immediate supervision of the
28 aide. The physical therapist shall be in the same facility as,
29 and in proximity to, the location where the aide is
30 performing patient-related tasks, and shall be readily
31 available at all times to provide advice or instruction to
32 the aide. When patient-related tasks are provided to a
33 patient by an aide, the supervising physical therapist
34 shall, at some point during the treatment day, provide
35 direct service to the patient as treatment for the patient's
36 condition, or to further evaluate and monitor the
37 patient's progress, and shall correspondingly document
38 the patient's record.

1 The administration of massage, external baths, or
2 normal exercise not a part of a physical therapy treatment
3 shall not be prohibited by this section.

4 SEC. 22. Section 2632 of the Business and Professions
5 Code is amended to read:

6 2632. All licenses for the practice of physical therapy
7 in this state shall be issued by the board, and all
8 applications for the licenses shall be filed with the board.
9 Excepting as otherwise required by the director pursuant
10 to Section 164, the license issued by the board shall
11 describe the licensee as a “physical therapist licensed by
12 the Physical Therapy Board of California.”

13 Each application shall be accompanied by the
14 application fee prescribed by Section 2688, shall be signed
15 by the applicant, and shall contain a statement under oath
16 of the facts entitling the applicant to receive a license
17 without examination or to take an examination.

18 SEC. 23. Section 2633 of the Business and Professions
19 Code is amended to read:

20 2633. A person holding a license as a physical therapist
21 issued by the board may use the title “physical therapist”
22 or the letters “P.T.” or any other words, letters or figures
23 which indicate that the person using same is a licensed
24 physical therapist. No other person shall be so designated
25 or shall use the term licensed or registered physical
26 therapist, licensed or registered physiotherapist, licensed
27 or registered physical therapy technician, or the letters
28 “L.P.T.,” “R.P.T.,” or “P.T.”. The license as a physical
29 therapist shall not authorize the use of the prefix “Dr.,”
30 the word “doctor,” or any suffix or affix indicating or
31 implying that the licensed person is a doctor or a
32 physician or surgeon.

33 Notwithstanding this section, a licentiate of this
34 chapter may use an initial or other suffix indicating
35 possession of a specific academic degree earned at, and
36 issued by, an institution accredited by the Western
37 Association of Schools and Colleges or any accrediting
38 agency recognized by the National Commission on
39 Accrediting or the United States Department of
40 Education which the board determines is equivalent,

1 except that the initials “M.D.” shall not be used unless the
2 licentiate is licensed as a physician and surgeon in this
3 state.

4 SEC. 24. Section 2634 of the Business and Professions
5 Code is amended to read:

6 2634. The board may investigate each and every
7 applicant for a license, before a license is issued, in order
8 to determine whether or not the applicant has in fact the
9 qualifications required by this chapter.

10 SEC. 25. Section 2636 of the Business and Professions
11 Code is amended to read:

12 2636. Except as otherwise provided in this chapter, no
13 person shall receive a license under this chapter without
14 first successfully passing an examination given under the
15 direction of the board. The examination shall be in
16 writing and shall be conducted by those persons and in
17 the manner and under regulations as shall be prescribed
18 by the board but shall be so conducted that the identity
19 of each applicant taking an examination will be unknown
20 to all of the examiners until all of the papers have been
21 graded.

22 Applicants for licensure as a physical therapist shall be
23 required to demonstrate knowledge of the laws and
24 regulations related to the practice of physical therapy in
25 California. The examination shall reasonably test the
26 applicant’s knowledge of these laws and regulations.

27 SEC. 26. Section 2636.1 of the Business and
28 Professions Code is amended to read:

29 2636.1. Examinations for a license as a physical
30 therapist may be conducted by the board under a
31 uniform examination system, and for that purpose the
32 board may make such arrangements with organizations
33 furnishing examination material as may in its discretion
34 be desirable.

35 SEC. 27. Section 2636.5 of the Business and
36 Professions Code is amended to read:

37 2636.5. (a) An applicant may be issued a license
38 without a written examination if he or she meets all of the
39 following:

1 (1) He or she is at the time of application licensed or
2 registered as a physical therapist in a state, district, or
3 territory of the United States having, in the opinion of the
4 board, requirements for licensing or registration equal to
5 or higher than those in California, and he or she has
6 passed, to the satisfaction of the board, an examination for
7 licensing or registration that is, in the opinion of the
8 board, comparable to the examination used in this state.

9 (2) He or she is a graduate of a physical therapist
10 education program approved by the board, or has met the
11 requirements of Section 2653.

12 (3) He or she files an application as provided in Section
13 2632 and meets the requirements prescribed by Sections
14 2635 and 2650.

15 (b) An applicant for licensure under subdivision (a),
16 whose application is based on a certificate issued by a
17 physical therapy licensing authority of another state may
18 be required to pass an oral examination given by the
19 board and file a statement of past work activity.

20 (c) An applicant who has filed a physical therapy
21 application under this section with the board may,
22 between the date of receipt of notice that his or her
23 application is on file and the date of receipt of his or her
24 license, perform as a physical therapist under the direct
25 and immediate supervision of a physical therapist
26 licensed in this state.

27 During this period the applicant shall identify himself
28 or herself only as a “physical therapist license applicant.”

29 If the applicant under this section does not qualify and
30 receive a license as provided in this section and does not
31 qualify under Section 2639 all privileges under this
32 section shall terminate upon notice by certified mail,
33 return receipt requested.

34 SEC. 28. Section 2637 of the Business and Professions
35 Code is amended to read:

36 2637. Every applicant who is otherwise qualified as
37 provided in this chapter and who receives a passing grade
38 as established by the board on the examination shall be
39 granted a license.

1 SEC. 29. Section 2638 of the Business and Professions
2 Code is amended to read:

3 2638. Any applicant for licensure as a physical
4 therapist who fails to pass the examination required by
5 the board may take another examination and shall pay the
6 reexamination fee.

7 SEC. 30. Section 2639 of the Business and Professions
8 Code is amended to read:

9 2639. Every graduate of an approved physical
10 therapist education program who has filed a complete
11 application for licensure with the board may, between
12 the date of receipt of a letter of authorization to perform
13 as a “physical therapist license applicant” from the board
14 and the date of receipt of his or her license, perform as a
15 physical therapist under the direct and immediate
16 supervision of a physical therapist licensed in this state.
17 During this period the applicant shall identify himself or
18 herself only as a “physical therapist license applicant.”

19 A person shall not be considered a graduate unless he
20 or she has successfully completed all the clinical training
21 and internships required for graduation from the
22 program.

23 If the applicant fails to take the next succeeding
24 examination without due cause or fails to pass the
25 examination or receive a license, all privileges under this
26 section shall terminate upon notice by certified mail,
27 return receipt requested.

28 SEC. 31. Section 2650 of the Business and Professions
29 Code is amended to read:

30 2650. (a) Except as otherwise provided in this
31 chapter, each applicant for a license as a physical
32 therapist shall be a graduate of a professional degree
33 program of an accredited postsecondary institution or
34 institutions approved by the board, and shall have
35 completed a professional education including academic
36 coursework and clinical internship in physical therapy.

37 (b) As referenced in the evaluative criteria of the
38 Commission on Accreditation in Physical Therapy
39 Education of the American Physical Therapy Association,
40 the curriculum shall consist of a combination of didactic,

1 clinical, and research experiences in physical therapy
2 using critical thinking and weighing of evidence, and
3 shall include, at a minimum, all of the following:

4 (1) The sciences basic to physical therapy including
5 biomedical, physical, physiological, neurobiological,
6 anatomical, social and behavioral sciences.

7 (2) Clinical sciences including laboratory or other
8 practical experiences involving quantitative and
9 qualitative evaluation within the scope of physical
10 therapy practice including kinesiology, neuroscience,
11 pathology, human development, and gerontology.

12 (3) Treatment that constitutes the practice of physical
13 therapy.

14 (4) Learning experiences provided in the areas of
15 administration, education, and consultation.

16 (5) Research methods including the review and
17 critical analysis of research reports.

18 (6) Ethical, legal, and economical concepts of physical
19 therapy practice.

20 (c) Each applicant shall have at least 18 weeks of
21 full-time clinical experience with a variety of patients.

22 SEC. 32. Section 2650.1 of the Business and
23 Professions Code is amended to read:

24 2650.1. During the period of clinical practice referred
25 to in Section 2650 or in any similar period of observation
26 or related educational experience involving recipients of
27 physical therapy, a person so engaged shall be identified
28 only as a “physical therapy student,” or as a “physical
29 therapy intern” as authorized by the board in its
30 regulations.

31 SEC. 33. Section 2651 of the Business and Professions
32 Code is amended to read:

33 2651. The board may approve only those physical
34 therapist education programs that prove to the
35 satisfaction of the board that they comply with the
36 minimum physical therapy educational requirements set
37 forth in this chapter and adopted by the board pursuant
38 to this chapter. Physical therapist education programs
39 that are recognized by the Commission on Accreditation
40 in Physical Therapy Education of the American Physical

1 Therapy Association shall be deemed approved by the
2 board unless the board determines otherwise.

3 SEC. 34. Section 2652 of the Business and Professions
4 Code is amended to read:

5 2652. All physical therapist education programs,
6 whether situated in this state or not, furnishing courses of
7 study meeting the standards required by Sections 2650
8 and 2651 and the regulations of the board adopted
9 pursuant to this chapter shall be approved by the board
10 and shall be entitled to compel this approval, if it is
11 denied, by action in the Superior Court of the State of
12 California, the procedure and power of the court in which
13 action shall be the same as provided in Section 2087.

14 SEC. 35. Section 2653 of the Business and Professions
15 Code is amended to read:

16 2653. (a) An applicant for a license as a physical
17 therapist who was issued a diploma by a physical therapist
18 education program that is not an approved program and
19 is not located in the United States shall meet all of the
20 following requirements in order to be licensed as a
21 physical therapist:

22 (1) Furnish documentary evidence satisfactory to the
23 board, that he or she has completed the equivalent
24 professional degree to that issued by a United States
25 accredited physical therapist education program in a
26 physical therapist education program that entitles the
27 applicant to practice as a physical therapist in the country
28 where the diploma was issued. The physical therapy
29 education received by the applicant shall meet the
30 criteria set forth in subdivisions (b) and (c) of Section
31 2650. The board may require an applicant to submit
32 documentation of his or her education to a credentials
33 evaluation service for review and a report to the board.

34 (2) Pass the written examination required by Section
35 2636. The requirements to pass the written examination
36 shall not apply to an applicant who at the time of
37 application has passed, to the satisfaction of the board, an
38 examination for licensure in another state, district, or
39 territory of the United States, that is, in the opinion of the
40 board, comparable to the examination given in this state.

1 (3) Complete a period of clinical service under the
2 direct and immediate supervision of a physical therapist
3 licensed by the board which does not exceed nine months
4 in a location approved by the board, in a manner
5 satisfactory to the board. The applicant shall have passed
6 the written examination required in subdivision (b) prior
7 to commencing the period of clinical service. The board
8 shall require the supervising physical therapist to
9 evaluate the applicant and report his or her findings to
10 the board. The board may in its discretion waive all or
11 part of the required clinical service pursuant to
12 guidelines set forth in its regulations. During the period
13 of clinical service until he or she is issued a license as a
14 physical therapist by the board, the applicant shall be
15 identified as a “physical therapist license applicant.”

16 (4) An applicant for licensure under this subdivision,
17 whose application is based on a certificate issued by a
18 physical therapist licensing authority of another state,
19 may be required to pass an oral examination given by the
20 board, and to file a statement of past work activity.

21 (b) Nothing contained in this section shall prohibit the
22 board from disapproving any foreign physical therapist
23 education program or from denying the applicant if, in
24 the opinion of the board, the instruction received by the
25 applicant or the courses were not equivalent to that
26 required by this chapter. If the applicant does not qualify
27 to take the physical therapist examination, his or her
28 education may be evaluated and the applicant may be
29 eligible to take the physical therapist assistant
30 examination.

31 SEC. 36. Section 2655 of the Business and Professions
32 Code is amended to read:

33 2655. As used in this article:

34 (a) “Physical therapist” means a physical therapist
35 licensed by the board.

36 (b) “Physical therapist assistant” means a person who
37 meets the qualifications stated in Section 2655.3 and who
38 is approved by the board to assist in the provision of
39 physical therapy under the supervision of a physical
40 therapist who shall be responsible for the extent, kind,

1 and quality of the services provided by the physical
2 therapist assistant.

3 (c) “Physical therapist assistant” and “physical
4 therapy assistant” shall be deemed identical and
5 interchangeable.

6 SEC. 37. Section 2655.1 of the Business and
7 Professions Code is amended to read:

8 2655.1. The board shall adopt regulations that set
9 forth standards and requirements for the adequate
10 supervision of physical therapist assistants.

11 SEC. 38. Section 2655.2 of the Business and
12 Professions Code is amended to read:

13 2655.2. A physical therapist shall not supervise more
14 physical therapist assistants at any one time than in the
15 opinion of the board can be adequately supervised. Two
16 physical therapist assistants shall be the maximum
17 number of physical therapist assistants supervised by a
18 physical therapist at any one time, but the board may
19 permit the supervision of a greater number by a physical
20 therapist if, in the opinion of the board, there would be
21 adequate supervision and the public’s health and safety
22 would be served. In no case, however, shall the total
23 number of physical therapist assistants exceed twice the
24 number of physical therapists regularly employed by a
25 facility at any one time.

26 SEC. 39. Section 2655.3 of the Business and
27 Professions Code is amended to read:

28 2655.3. A person seeking approval as a physical
29 therapist assistant shall make application to the board for
30 that approval. Every person applying for approval as a
31 physical therapist assistant shall have all of the following
32 qualifications:

33 (a) Have graduated from a physical therapist assistant
34 education program approved by the board pursuant to
35 Section 2655.9, or have training or experience or a
36 combination of training and experience which in the
37 opinion of the board is equivalent to that obtained in an
38 approved physical therapist assistant education program.

39 (b) Successfully pass the examination required under
40 this article.

1 (c) Not be addicted to alcohol or any controlled
2 substance.

3 (d) Not have committed acts or crimes constituting
4 grounds for denial of approval under Section 480.

5 SEC. 40. Section 2655.4 of the Business and
6 Professions Code is amended to read:

7 2655.4. Except as otherwise provided in this chapter,
8 no person shall receive approval as a physical therapist
9 assistant without first successfully passing an examination
10 given under the direction of the board. The examination
11 shall be in writing and shall be conducted by those
12 persons and in the manner and under regulations as shall
13 be prescribed by the board, but shall be so conducted that
14 the identity of each applicant taking an examination will
15 be unknown to all of the examiners until all of the papers
16 have been graded.

17 SEC. 41. Section 2655.5 of the Business and
18 Professions Code is amended to read:

19 2655.5. Every applicant for approval as a physical
20 therapist assistant who is otherwise qualified as provided
21 in this chapter, and who receives a passing grade, as
22 established by the board, on the examination shall be
23 issued a certificate of approval.

24 SEC. 42. Section 2655.6 of the Business and
25 Professions Code is amended to read:

26 2655.6. Any applicant for approval as a physical
27 therapist assistant who fails to pass the examination given
28 by the board may take another examination and shall pay
29 the reexamination fee.

30 SEC. 43. Section 2655.7 of the Business and
31 Professions Code is amended to read:

32 2655.7. Notwithstanding Section 2630, a physical
33 therapist assistant may assist in the provision of physical
34 therapy service provided the assistance is rendered
35 under the supervision of a physical therapist licensed by
36 the board.

37 SEC. 44. Section 2655.71 of the Business and
38 Professions Code is amended to read:

39 2655.71. (a) An applicant may be issued an approval
40 as a physical therapist assistant without written

1 examination if he or she meets all of the following
2 requirements:

3 (1) He or she is at the time of application approved,
4 licensed, or registered as a physical therapist assistant in
5 a state, district, or territory of the United States having,
6 in the opinion of the board, requirements for approval,
7 licensing, or registration equal to or higher than those in
8 California, and he or she has passed, to the satisfaction of
9 the board, an examination for that approval, licensing or
10 registration that is, in the opinion of the board,
11 comparable to the examination used in this state.

12 (2) He or she is a graduate of a physical therapist
13 assistant education program approved by the board or has
14 graduated from a program determined by the board to be
15 equivalent, or as meeting the evaluative criteria for
16 accreditation by the Commission on Accreditation in
17 Physical Therapy Education of the American Physical
18 Therapy Association.

19 (3) He or she files an application as provided in Section
20 2655.3.

21 (b) An applicant who has filed a physical therapist
22 assistant application may assist in the provision of physical
23 therapy in accordance with Section 2655.91.

24 SEC. 45. Section 2655.8 of the Business and
25 Professions Code is amended to read:

26 2655.8. Any person, other than one who has been
27 approved by the board, who holds himself or herself out
28 as a “physical therapist assistant” or who uses any other
29 term indicating or implying that he or she is a physical
30 therapist assistant, is guilty of a misdemeanor.

31 SEC. 46. Section 2655.9 of the Business and
32 Professions Code is amended to read:

33 2655.9. (a) The board shall approve each physical
34 therapist assistant education program that proves to the
35 satisfaction of the board that it complies with criteria for
36 approval of those programs set forth in this section and
37 established by the board. These criteria may be based
38 upon the standards and curriculum guidelines for a
39 physical therapist assistant education program as

1 promulgated by the American Physical Therapy
2 Association or an essentially equivalent organization.

3 (b) Except as otherwise provided in this chapter, each
4 applicant for approval as a physical therapist assistant
5 shall be a graduate of an accredited postsecondary
6 institution or institutions and shall have completed both
7 the academic and clinical experience required by the
8 physical therapist assistant program, and have been
9 awarded the associate degree.

10 (c) The curriculum shall consist of a combination of
11 basic sciences, applied clinical sciences, and progressive
12 application through clinical experience. The curriculum
13 shall reflect education in the skills and judgment required
14 of the physical therapist assistant in the contemporary
15 performance of physical therapy through an organized
16 sequence of integrated learning experiences.

17 (1) The basic sciences shall include, at a minimum,
18 human anatomy and physiology, physical or health
19 sciences, and social or behavioral sciences.

20 (2) The applied clinical sciences shall include
21 neurology, normal and pathological kinesiology, normal
22 and abnormal growth and development, gerontology,
23 orthopedic disorders, and fundamentals of physical
24 therapy including the economic, legal, and ethical aspects
25 of practice. Clinical studies shall also provide laboratory
26 experiences in simulated patient treatment including the
27 observation, measurement, and reporting of a patient's
28 physiologic state and effectiveness of the treatment
29 relative to the goals established by the physical therapist's
30 evaluation.

31 (3) The clinical experience shall include physical
32 therapy treatments of patients of varying ages,
33 disabilities, and diseases. This experience shall occur in a
34 variety of practice settings allowing for interaction with
35 health care professionals. Clinical experience shall
36 include daily written and verbal communication with the
37 supervising physical therapist to report each patient's
38 treatment program relative to the treatment goals and to
39 discuss adjustments in the treatment program and
40 discharge plan.

1 SEC. 47. Section 2655.91 of the Business and
2 Professions Code is amended to read:

3 2655.91. Every graduate of an approved physical
4 therapist assistant education program who has filed a
5 complete physical therapist assistant application with the
6 board may, between the date of receipt of a letter of
7 authorization to perform as a “physical therapist assistant
8 applicant” from the board and the date of receipt of
9 approval, assist in the provision of physical therapy under
10 the direct and immediate supervision of a licensed
11 physical therapist.

12 During this period the applicant shall identify himself
13 or herself only as a “physical therapist assistant
14 applicant.”

15 If a person assisting in the provision of physical therapy
16 pursuant to this section fails to take the next succeeding
17 examination without due cause or fails to pass the
18 examination or receive approval, all privileges under this
19 section shall terminate upon notice by certified mail,
20 return receipt requested.

21 A student is not eligible to work as a physical therapist
22 assistant applicant until successful completion of the
23 clinical experience required for graduation from the
24 program.

25 SEC. 48. Section 2655.92 of the Business and
26 Professions Code is amended to read:

27 2655.92. The board may adopt regulations as
28 reasonably necessary to carry out the purposes of this
29 article. The board shall adopt a regulation formulating a
30 definition of the term “adequate supervision” as used in
31 this article.

32 SEC. 49. Section 2660 of the Business and Professions
33 Code is amended to read:

34 2660. The board may, after the conduct of
35 appropriate proceedings under the Administrative
36 Procedure Act, suspend for not more than 12 months, or
37 revoke, or impose probationary conditions upon, or issue
38 subject to terms and conditions any license, certificate, or
39 approval issued under this chapter for any of the
40 following causes:

- 1 (a) Advertising in violation of Section 17500.
- 2 (b) Fraud in the procurement of any license under this
- 3 chapter.
- 4 (c) Procuring or aiding or offering to procure or aid in
- 5 criminal abortion.
- 6 (d) Conviction of a crime which substantially relates
- 7 to the qualifications, functions, or duties of a physical
- 8 therapist. The record of conviction or a certified copy
- 9 thereof shall be conclusive evidence of that conviction.
- 10 (e) Impersonating or acting as a proxy for an applicant
- 11 in any examination given under this chapter.
- 12 (f) Habitual intemperance.
- 13 (g) Addiction to the excessive use of any habit-forming
- 14 drug.
- 15 (h) Gross negligence in his or her practice as a physical
- 16 therapist.
- 17 (i) Conviction of a violation of any of the provisions of
- 18 this chapter or of the State Medical Practice Act, or
- 19 violating, or attempting to violate, directly or indirectly,
- 20 or assisting in or abetting the violating of, or conspiring
- 21 to violate any provision or term of this chapter or of the
- 22 State Medical Practice Act.
- 23 (j) The aiding or abetting of any person to violate this
- 24 chapter or any regulations duly adopted under this
- 25 chapter.
- 26 (k) The aiding or abetting of any person to engage in
- 27 the unlawful practice of physical therapy.
- 28 (l) The commission of any fraudulent, dishonest, or
- 29 corrupt act which is substantially related to the
- 30 qualifications, functions, or duties of a physical therapist.
- 31 (m) Except for good cause, the knowing failure to
- 32 protect patients by failing to follow infection control
- 33 guidelines of the board, thereby risking transmission of
- 34 blood-borne infectious diseases from licensee to patient,
- 35 from patient to patient, and from patient to licensee. In
- 36 administering this subdivision, the board shall consider
- 37 referencing the standards, regulations, and guidelines of
- 38 the State Department of Health Services developed
- 39 pursuant to Section 1250.11 of the Health and Safety Code
- 40 and the standards, regulations, and guidelines pursuant to

1 the California Occupational Safety and Health Act of 1973
2 (Part 1 (commencing with Section 6300) of Division 5 of
3 the Labor Code) for preventing the transmission of HIV,
4 Hepatitis B, and other blood-borne pathogens in health
5 care settings. As necessary, the board shall consult with
6 the Medical Board of California, the California Board of
7 Podiatric Medicine, the Board of Dental Examiners of
8 California, the Board of Registered Nursing, and the
9 Board of Vocational Nurse and Psychiatric Technician
10 Examiners of the State of California, to encourage
11 appropriate consistency in the implementation of this
12 subdivision.

13 The board shall seek to ensure that licensees are
14 informed of the responsibility of licensees and others to
15 follow infection control guidelines, and of the most recent
16 scientifically recognized safeguards for minimizing the
17 risk of transmission of blood-borne infectious diseases.

18 SEC. 50. Section 2661 of the Business and Professions
19 Code is amended to read:

20 2661. A plea or verdict of guilty or a conviction
21 following a plea of nolo contendere made to a charge of
22 a felony or of any offense which substantially relates to the
23 qualifications, functions, or duties of a physical therapist
24 is deemed to be a conviction within the meaning of this
25 article. The board may order the license suspended or
26 revoked, or may decline to issue a license, when the time
27 for appeal has elapsed, or the judgment of conviction has
28 been affirmed on appeal or when an order granting
29 probation is made suspending the imposition of sentence,
30 irrespective of a subsequent order under Section 1203.4
31 of the Penal Code allowing that person to withdraw his or
32 her plea of guilty and to enter a plea of not guilty, or
33 setting aside the verdict of guilty, or dismissing the
34 accusation, information, or indictment.

35 SEC. 51. Section 2661.5 of the Business and
36 Professions Code is amended to read:

37 2661.5. (a) In any order issued in resolution of a
38 disciplinary proceeding before the board, the board may
39 request the administrative law judge to direct any
40 licensee found guilty of unprofessional conduct to pay to

1 the board a sum not to exceed the actual and reasonable
2 costs of the investigation and prosecution of the case.

3 (b) The costs to be assessed shall be fixed by the
4 administrative law judge and shall not in any event be
5 increased by the board. When the board does not adopt
6 a proposed decision and remands the case to an
7 administrative law judge, the administrative law judge
8 shall not increase the amount of the assessed costs
9 specified in the proposed decision.

10 (c) When the payment directed in an order for
11 payment of costs is not made by the licensee, the board
12 may enforce the order of payment by bringing an action
13 in any appropriate court. This right of enforcement shall
14 be in addition to any other rights the board may have as
15 to any licensee directed to pay costs.

16 (d) In any judicial action for the recovery of costs,
17 proof of the board's decision shall be conclusive proof of
18 the validity of the order of payment and the terms for
19 payment.

20 (e) (1) Except as provided in paragraph (2), the
21 board shall not renew or reinstate the license or approval
22 of any person who has failed to pay all of the costs ordered
23 under this section.

24 (2) Notwithstanding paragraph (1), the board may, in
25 its discretion, conditionally renew or reinstate for a
26 maximum of one year the license or approval of any
27 person who demonstrates financial hardship and who
28 enters into a formal agreement with the board to
29 reimburse the board within that one year period for those
30 unpaid costs.

31 (f) All costs recovered under this section shall be
32 deposited in the Physical Therapy Fund as a
33 reimbursement in either the fiscal year in which the costs
34 are actually recovered or the previous fiscal year, as the
35 board may direct.

36 SEC. 52. Section 2662 of the Business and Professions
37 Code is amended to read:

38 2662. It is the intent of the Legislature that the board
39 shall seek ways and means to identify and rehabilitate
40 physical therapists and physical therapist assistants whose

1 competency is impaired due to abuse of dangerous drugs
2 or alcohol so that they may be treated and returned to the
3 practice of physical therapy in a manner which will not
4 endanger the public health and safety.

5 SEC. 53. Section 2663 of the Business and Professions
6 Code is amended to read:

7 2663. The board shall establish and administer a
8 diversion program for the rehabilitation of physical
9 therapists and physical therapist assistants whose
10 competency is impaired due to the abuse of drugs or
11 alcohol. The board may contract with any other state
12 agency or a private organization to perform its duties
13 under this article. The board may establish one or more
14 diversion evaluation committees to assist it in carrying
15 out its duties under this article.

16 SEC. 54. Section 2664 of the Business and Professions
17 Code is amended to read:

18 2664. (a) Any diversion evaluation committee
19 established by the board shall have at least three
20 members. In making appointments to a diversion
21 evaluation committee, the board shall consider the
22 appointment of persons who are either recovering from
23 substance abuse and have been free from substance abuse
24 for at least three years immediately prior to their
25 appointment or who are knowledgeable in the treatment
26 and recovery of substance abuse. The board also shall
27 consider the appointment of a physician and surgeon who
28 is board certified in psychiatry.

29 (b) Appointments to a diversion evaluation
30 committee shall be by the affirmative vote of a majority
31 of members appointed to the board. Each appointment
32 shall be at the pleasure of the board for a term not to
33 exceed four years. In its discretion, the board may stagger
34 the terms of the initial members so appointed.

35 (c) A majority of the members of a diversion
36 evaluation committee shall constitute a quorum for the
37 transaction of business. Any action requires an
38 affirmative vote of a majority of those members present
39 at a meeting constituting at least a quorum. Each
40 diversion evaluation committee shall elect from its

1 membership a chairperson and a vice chairperson.
2 Notwithstanding the Bagley-Keene Open Meeting Act
3 (Article 9 (commencing with Section 11120) of Chapter
4 1 of Part 1 of Division 3 of Title 2 of the Government
5 Code), relating to public meetings, a diversion evaluation
6 committee may convene in closed session to consider
7 matters relating to any physical therapist or physical
8 therapist assistant applying for or participating in a
9 diversion program, and a meeting which will be
10 convened entirely in closed session need not comply with
11 Section 11125 of the Government Code. A diversion
12 evaluation committee shall only convene in closed session
13 to the extent it is necessary to protect the privacy of an
14 applicant or participant. Each member of a diversion
15 evaluation committee shall receive a per diem and shall
16 be reimbursed for expenses as provided in Section 103.

17 SEC. 55. Section 2665 of the Business and Professions
18 Code is amended to read:

19 2665. Each diversion evaluation committee has the
20 following duties and responsibilities:

21 (a) The evaluation of physical therapists and physical
22 therapist assistants who request participation in the
23 program and the consideration of any recommendations
24 from professional consultants on the admission of
25 applicants to the diversion program.

26 (b) The review and designation of treatment facilities
27 to which physical therapists and physical therapist
28 assistants in the diversion program may be referred.

29 (c) The receipt and review of information concerning
30 physical therapists and physical therapist assistants
31 participating in the program.

32 (d) Calling meetings as necessary to consider the
33 requests of physical therapists and physical therapist
34 assistants to participate in the diversion program, to
35 consider reports regarding participants in the program,
36 and to consider any other matters referred to it by the
37 board.

38 (e) The consideration of whether each participant in
39 the diversion program may with safety continue or
40 resume the practice of physical therapy.

1 (f) Setting forth in writing a treatment program for
2 each participant in the diversion program with
3 requirements for supervision and surveillance.

4 (g) Holding a general meeting at least twice a year,
5 which shall be open and public, to evaluate the diversion
6 program's progress, to prepare reports to be submitted to
7 the committee, and to suggest proposals for changes in
8 the diversion program.

9 (h) For the purposes of Division 3.6 (commencing
10 with Section 810) of Title 1 of the Government Code, any
11 member of a diversion evaluation committee shall be
12 considered a public employee. No board or diversion
13 evaluation committee member, contractor, or agent
14 thereof, shall be liable for any civil damage because of acts
15 or omissions which may occur while acting in good faith
16 in a program established pursuant to this article.

17 SEC. 56. Section 2666 of the Business and Professions
18 Code is amended to read:

19 2666. (a) Criteria for acceptance into the diversion
20 program shall include all of the following:

21 (1) The applicant shall be licensed as a physical
22 therapist or approved as a physical therapist assistant by
23 the board and shall be a resident of California.

24 (2) The applicant shall be found to abuse dangerous
25 drugs or alcoholic beverages in a manner which may
26 affect his or her ability to practice physical therapy safely
27 or competently.

28 (3) The applicant shall have voluntarily requested
29 admission to the program or shall be accepted into the
30 program in accordance with terms and conditions
31 resulting from a disciplinary action.

32 (4) The applicant shall agree to undertake any
33 medical or psychiatric examination ordered to evaluate
34 the applicant for participation in the program.

35 (5) The applicant shall cooperate with the program by
36 providing medical information, disclosure authorizations,
37 and releases of liability as may be necessary for
38 participation in the program.

1 (6) The applicant shall agree in writing to cooperate
2 with all elements of the treatment program designed for
3 him or her.

4 Any applicant may be denied participation in the
5 program if the board its designee, or a diversion
6 evaluation committee, as the case may be, determines
7 that the applicant will not substantially benefit from
8 participation in the program or that the applicant's
9 participation in the program creates too great a risk to the
10 public health, safety, or welfare.

11 (b) A participant may be terminated from the
12 program for any of the following reasons:

13 (1) The participant has successfully completed the
14 treatment program.

15 (2) The participant has failed to comply with the
16 treatment program designated for him or her.

17 (3) The participant fails to meet any of the criteria set
18 forth in subdivision (a) or (c).

19 (4) It is determined that the participant has not
20 substantially benefited from participation in the program
21 or that his or her continued participation in the program
22 creates too great a risk to the public health, safety, or
23 welfare. Whenever an applicant is denied participation in
24 the program or a participant is terminated from the
25 program for any reason other than the successful
26 completion of the program, and it is determined that the
27 continued practice of physical therapy by that individual
28 creates too great a risk to the public health, safety, and
29 welfare, that fact shall be reported to the executive officer
30 of the board and all documents and information
31 pertaining to and supporting that conclusion shall be
32 provided to the executive officer. The matter may be
33 referred for investigation and disciplinary action by the
34 board. Each physical therapist or physical therapy
35 assistant who requests participation in a diversion
36 program shall agree to cooperate with the recovery
37 program designed for him or her. Any failure to comply
38 with that program may result in termination of
39 participation in the program.

1 The diversion evaluation committee shall inform each
2 participant in the program of the procedures followed in
3 the program, of the rights and responsibilities of a
4 physical therapist or physical therapist assistant in the
5 program, and the possible results of noncompliance with
6 the program.

7 (c) In addition to the criteria and causes set forth in
8 subdivision (a), the board may set forth in its regulations
9 additional criteria for admission to the program or causes
10 for termination from the program.

11 SEC. 57. Section 2667 of the Business and Professions
12 Code is amended to read:

13 2667. All board and diversion evaluation committee
14 records and records of proceedings and participation of
15 a physical therapist or physical therapist assistant in a
16 program shall be confidential and are not subject to
17 discovery or subpoena.

18 SEC. 58. Section 2668 of the Business and Professions
19 Code is amended to read:

20 2668. (a) A fee not to exceed one hundred dollars
21 (\$100) may be charged for participation in the program.

22 (b) If the board contracts with any other entity to
23 carry out this section, the executive officer of the board,
24 or his or her designee, shall review the activities and
25 performance of the contractor on a biennial basis. As part
26 of this review, the board shall review files of participants
27 in the program. However, the names of participants who
28 entered the program voluntarily shall remain
29 confidential, except when the review reveals
30 misdiagnosis, case mismanagement, or noncompliance by
31 the participant.

32 SEC. 59. Section 2669 of the Business and Professions
33 Code is amended to read:

34 2669. Participation in a diversion program shall not be
35 a defense to any disciplinary action which may be taken
36 by the board. This section does not preclude the board
37 from commencing disciplinary action against a physical
38 therapist or physical therapist assistant who is terminated
39 unsuccessfully from the program under this section. That

1 disciplinary action may not include as evidence any
2 confidential information.

3 SEC. 60. Section 2672 of the Business and Professions
4 Code is amended to read:

5 2672. Whenever any person has engaged or is about
6 to engage in any acts or practices which constitute or will
7 constitute an offense against this chapter, the superior
8 court of any county, on application of the Medical Board
9 of California, the board, or 10 or more persons holding
10 physical therapist licenses issued under this chapter, may
11 issue an injunction or other appropriate order restraining
12 the conduct. Proceedings under this section shall be
13 governed by Chapter 3 (commencing with Section 525)
14 of Title 7 of Part 2 of the Code of Civil Procedure.

15 SEC. 61. Section 2680 of the Business and Professions
16 Code is amended to read:

17 2680. The board shall keep a record of its proceedings
18 under this chapter, and a register of all persons licensed
19 under it. The register shall show the name of every living
20 licensee, his or her last known place of residence, and the
21 date and number of his or her license as a physical
22 therapist. The board shall compile a list of physical
23 therapists authorized to practice physical therapy in the
24 state. Any interested person is entitled to obtain a copy of
25 that list upon application to the board and payment of
26 such amount as may be fixed by the board which amount
27 shall not exceed the cost of the list so furnished.

28 SEC. 62. Section 2682 of the Business and Professions
29 Code is amended to read:

30 2682. There is in the State Treasury the Physical
31 Therapy Fund. All collections from persons licensed or
32 approved or seeking to be licensed or approved shall be
33 paid by the board into the fund after reporting to the
34 Controller at the beginning of each month the amount
35 and source of the collections. All money in the Physical
36 Therapy Fund is appropriated to carry out the purposes
37 of this chapter.

38 SEC. 63. Section 2684 of the Business and Professions
39 Code is amended to read:



1 2684. (a) Notwithstanding Section 2422, any license
2 or approval for the practice of physical therapy shall
3 expire at 12 midnight on the last day of the birth month
4 of the licensee or holder of an approval during the second
5 year of a two-year term, if not renewed.

6 (b) To renew an unexpired license or approval, the
7 licensee or the holder of an approval shall, on or before
8 the dates on which it would otherwise expire, apply for
9 renewal on a form prescribed by the board and pay the
10 prescribed renewal fee.

11 SEC. 64. Section 2685 of the Business and Professions
12 Code is amended to read:

13 2685. At least 60 days before the expiration of any
14 license or approval, the board shall mail to each licensee
15 under this chapter, at the latest address furnished by the
16 licensee to the executive officer, a notice stating the
17 amount of the renewal fee and the date on which it is due,
18 and that failure to pay it on or before the due date will
19 result in expiration of the license.

20 SEC. 65. Section 2687 of the Business and Professions
21 Code is amended to read:

22 2687. All fees earned by the board and all fines and
23 forfeitures of bail to which the board is entitled shall be
24 reported at the beginning of each month, for the month
25 preceding, to the State Controller. At the same time, the
26 entire amount of these collections shall be paid into the
27 State Treasury and shall be credited to the Physical
28 Therapy Fund.

29 This fund shall be for the uses of the board and is
30 continuously appropriated to the board to pay all salaries
31 and all other expenses necessarily incurred in carrying
32 into effect the provisions of this chapter.

33 SEC. 66. Section 2688 of the Business and Professions
34 Code is amended to read:

35 2688. The amount of fees provided in connection with
36 licenses or approvals for the practice of physical therapy
37 is as follows:

38 (a) The application fee for a physical therapist's
39 license shall be established by the board at not more than
40 fifty dollars (\$50). The application fee for an applicant

1 under Section 2653 shall be established by the board at not
2 more than one hundred dollars (\$100).

3 (b) The examination and reexamination fees for the
4 physical therapist examination and the physical therapist
5 assistant examination shall be the actual cost to the board
6 of the purchase and grading of each written examination,
7 plus the actual cost to the board of administering each
8 examination.

9 (c) The initial license fee for a physical therapist
10 license shall be eighty dollars (\$80), unless a lower fee is
11 established by the board.

12 (d) The renewal fee for a physical therapist license
13 shall be eighty dollars (\$80), unless a lower fee is
14 established by the board.

15 (e) A fee to be set by the board of not more than fifty
16 dollars (\$50) shall be charged for each application for
17 approval as a physical therapist assistant.

18 (f) A fee of eighty dollars (\$80) shall be charged for the
19 issuance of and for the renewal of each approval as a
20 physical therapist assistant, unless a lower fee is
21 established by the board.

22 (g) Notwithstanding Section 163.5, the delinquency
23 fee shall be 50 percent of the renewal fee in effect.

24 (h) The duplicate wall certificate fee shall not exceed
25 twenty dollars (\$20). The duplicate renewal receipt fee
26 shall not exceed twenty dollars (\$20).

27 (i) The endorsement or letter of good standing fee is
28 thirty dollars (\$30).

29 SEC. 67. Section 2688.5 of the Business and
30 Professions Code is amended to read:

31 2688.5. The board shall submit a report to the fiscal
32 and appropriate policy committees of the legislature
33 whenever the board increases any fee. The report shall
34 specify the justification for the increase and the
35 percentage of the fee increase to be used for enforcement
36 purposes.

37 SEC. 68. Section 2689 of the Business and Professions
38 Code is amended to read:

39 2689. (a) The board may establish by regulation
40 suitable application and renewal fees of not more than

1 two hundred dollars (\$200), for persons certified to
2 perform electromyographical testing pursuant to Section
3 2620.5, based upon the cost of operating the certification
4 program. The application fee shall be paid by the
5 applicant at the time the application is filed and the
6 renewal fee shall be paid as provided in Section 2683.

7 (b) The board shall charge an examination and
8 reexamination fee of five hundred dollars (\$500) to
9 applicants who are examined and who have been found
10 to otherwise meet the board's standards for certification.

11 SEC. 69. Section 2690 of the Business and Professions
12 Code is amended to read:

13 2690. A physical therapy corporation is a corporation
14 which is authorized to render professional services, as
15 defined in Section 13401 of the Corporations Code, so long
16 as that corporation and its shareholders, officers,
17 directors, and employees rendering professional services
18 who are physical therapists are in compliance with the
19 Moscone-Knox Professional Corporation Act, this article
20 and all other statutes and regulations now or hereafter
21 enacted or adopted pertaining to such corporation and
22 the conduct of its affairs.

23 With respect to a physical therapy corporation, the
24 governmental agency referred to in the Moscone-Knox
25 Professional Corporation Act is the Physical Therapy
26 Board of California.

27 SEC. 70. Section 2696 of the Business and Professions
28 Code is amended to read:

29 2696. The board may adopt and enforce regulations to
30 carry out the purposes and objectives of this article,
31 including regulations requiring (a) that the bylaws of a
32 physical therapy corporation shall include a provision
33 whereby the capital stock of such corporation owned by
34 a disqualified person (as defined in Section 13401 of the
35 Corporations Code), or a deceased person, shall be sold
36 to the corporation or to the remaining shareholders of
37 such corporation within such time as such regulations
38 may provide, and (b) that a physical therapy corporation
39 shall provide adequate security by insurance or otherwise

1 for claims against it by its patients arising out of the
2 rendering of professional services.

3 SEC. 71. Section 2987.5 of the Business and
4 Professions Code is amended to read:

5 2987.5. Every person licensed under this chapter is
6 exempt from the payment of the renewal fee in any one
7 of the following instances:

8 While engaged in full-time active service in the Army,
9 Navy, Air Force or Marines, or in the United States Public
10 Health Service, or while a volunteer in the Peace Corps
11 or Vista.

12 Every person exempted from the payment of the
13 renewal fee by this section shall not engage in any private
14 practice and shall become liable for such fee for the
15 current renewal period upon the completion of his or her
16 period of full-time active service and shall have a period
17 of 60 days after becoming liable within which to pay the
18 fee before the delinquency fee becomes applicable. Any
19 person who completes his or her period of full-time active
20 service within 60 days of the end of a renewal period is
21 exempt from the payment of the renewal fee for that
22 period.

23 The time spent in such full-time active service or
24 full-time training and active service shall not be included
25 in the computation of the three-year period for renewal
26 of a license provided in Section 2986.

27 The exemption provided by this section shall not be
28 applicable if the person engages in any practice for
29 compensation other than full-time service in the Army,
30 Navy, Air Force or Marines or in the United States Public
31 Health Service or the Peace Corps or Vista.

32 SEC. 72. Section 3356 of the Business and Professions
33 Code is amended to read:

34 3356. An applicant who has fulfilled the requirements
35 of Section 3352 and has made application therefor, may
36 have a temporary license issued to him or her upon
37 satisfactory proof to the committee that the applicant
38 holds a hearing aid dispenser's license in another state,
39 that the licensee has not been subject to formal
40 disciplinary action by another licensing authority, and

1 that the applicant has been engaged in the fitting and sale
2 of hearing aids for the two years prior to application. An
3 individual licensed under this section shall take the
4 written license examination within 90 days after the date
5 on which the temporary license was issued. If the
6 temporary licensee does not take either examination or
7 fails either examination, then he or she shall renew the
8 temporary license under the provisions of Section 3357,
9 subject to the requirements of that section.

10 SEC. 73. Section 3360 of the Business and Professions
11 Code is amended to read:

12 3360. Practical examinations shall be held by the
13 committee at least twice a year. The time and place of any
14 practical examination shall be fixed by the committee at
15 least 45 days prior to the date it is to be held.

16 SEC. 74. Section 3401 of the Business and Professions
17 Code is amended to read:

18 3401. The committee may deny, issue subject to terms
19 and conditions, suspend, or revoke a license, or impose
20 conditions of probation upon a licensee, for any of the
21 following causes:

22 (a) Gross incompetency which includes, but is not
23 limited to, the improper or unnecessary fitting of a
24 hearing aid.

25 (b) Gross negligence.

26 (c) Repeated negligent acts.

27 (d) Conviction of any crime substantially related to
28 the qualifications, functions and duties of a hearing aid
29 dispenser.

30 (e) Obtaining a license by fraud or deceit.

31 (f) Use of the term “doctor” or “physician” or “clinic”
32 or “audiologist,” or any derivation thereof, unless
33 authorized by law.

34 (g) Fraud or misrepresentation in the fitting or selling
35 of a hearing aid.

36 (h) The employment, to perform any act covered by
37 the provisions of this chapter, of any person whose license
38 has been suspended, revoked, or who does not possess a
39 valid license issued under this chapter.

(i) The use or causing the use, of any advertising or promotional literature in such manner as to have the capacity or tendency to mislead or deceive purchasers or prospective purchasers.

(j) Habitual intemperance in the use of alcohol or any controlled substance.

(k) The licensee's permitting another to use his or her license for any purpose.

(l) Violation of any provision of this chapter or of any regulation adopted pursuant to this chapter.

(m) Any cause which would be grounds for denial of an application for a license.

SEC. 75. Section 3427.5 of the Business and Professions Code is amended to read:

3427.5. It is unlawful for a licensed hearing aid dispenser to fit or sell a hearing aid unless he or she first does all of the following:

(a) Complies with all provisions of state laws and regulations relating to the fitting or selling of hearing aids.

(b) Conducts a direct observation of the purchaser's ear canals.

(c) Informs the purchaser of the address and office hours at which the licensee shall be available for fitting or postfitting adjustments and servicing of the hearing aid or aids sold.

SEC. 76. Section 3901 of the Business and Professions Code is amended to read:

3901. This chapter may be known and cited as the "Nursing Home Administrator's Act."

SEC. 77. Section 3902 of the Business and Professions Code is amended to read:

3902. "Nursing home" means any institution, facility, place, building or agency, or portion thereof, licensed as a skilled nursing facility, nursing facility, intermediate care facility, intermediate care facility/developmentally disabled, intermediate care facility/developmentally disabled habilitative, intermediate care facility/developmentally disabled—nursing, or congregate living health facility, as defined in Chapter 2

1 (commencing with Section 1250) of Division 2 of the
2 Health and Safety Code.

3 SEC. 78. Section 3924 of the Business and Professions
4 Code is amended to read:

5 3924. (a) Every holder of a nursing home
6 administrator's license shall renew the license biennially,
7 on dates specified by the board, by submitting a renewal
8 form and the appropriate renewal fee. In the event that
9 the license of an individual is not renewed within three
10 years from the date of expiration, and all accrued and
11 unpaid renewal fees and delinquent penalties required
12 by this chapter are not paid, the license shall be cancelled
13 and that individual shall again apply for licensure and
14 meet all requirements of this chapter as if a new
15 applicant.

16 (b) The renewal form shall include a statement under
17 penalty of perjury whether the licensee was convicted of
18 a crime during the preceding renewal period.

19 (c) A condition of licensure renewal shall be the
20 presentation of proof by the licensee that he or she has
21 attended the number of classroom hours of approved
22 continuing educational programs, classes, seminars, or
23 proceedings required by the regulations promulgated by
24 the board, at least 25 percent of which shall be in the area
25 of aging and patient care. The board, at its discretion, may
26 except from continuing education requirements, the
27 licensees who for reasons of health, military service, or
28 other good cause cannot meet those requirements. Each
29 waiver granted shall be for the current licensure period
30 only.

31 (d) A licensee may renew his or her license pursuant
32 to this chapter, although he or she may not currently be
33 actively engaged in nursing home administration.

34 SEC. 79. Section 3924.5 of the Business and
35 Professions Code is repealed.

36 SEC. 80. Section 3930.1 of the Business and
37 Professions Code is repealed.

38 SEC. 81. Section 3930.5 of the Business and
39 Professions Code is amended to read:

1 3930.5. Any nursing home administrator whose
2 license has been suspended shall not be employed as an
3 administrator of a nursing home, or engage in any
4 activities for which a license is issued by the board, during
5 the period of suspension.

6 SEC. 82. Section 4940.1 of the Business and
7 Professions Code is repealed.

8 SEC. 83. Section 4940.2 of the Business and
9 Professions Code is repealed.

10 SEC. 84. Section 4940.3 of the Business and
11 Professions Code is repealed.

12 SEC. 85. Section 4980.03 of the Business and
13 Professions Code is amended to read:

14 4980.03. (a) "Board," as used in this chapter, means
15 the Board of Behavioral Sciences.

16 (b) "Intern," as used in this chapter, means an
17 unlicensed person who has earned his or her master's or
18 doctor's degree qualifying him or her for licensure and is
19 registered with the board.

20 (c) "Trainee," as used in this chapter, means an
21 unlicensed person who is currently enrolled in a master's
22 or doctor's degree program, as specified in Section
23 4980.40, that is designed to qualify him or her for licensure
24 under this chapter, and who has completed no less than
25 12 semester units or 18 quarter units of coursework in any
26 qualifying degree program.

27 (d) "Advertise," as used in this chapter, includes, but
28 is not limited to, the issuance of any card, sign, or device
29 to any person, or the causing, permitting, or allowing of
30 any sign or marking on, or in, any building or structure,
31 or in any newspaper or magazine or in any directory, or
32 any printed matter whatsoever, with or without any
33 limiting qualification. It also includes business
34 solicitations communicated by radio or television
35 broadcasting. Signs within church buildings or notices in
36 church bulletins mailed to a congregation shall not be
37 construed as advertising within the meaning of this
38 chapter.

1 SEC. 86. Section 4980.40 of the Business and
2 Professions Code, as amended by Section 6.5 of Chapter
3 758 of the Statutes of 1995, is amended to read:

4 4980.40. To qualify for a license an applicant shall
5 have all the following qualifications:

6 (a) Applicants applying for licensure on or after
7 January 1, 1988, shall possess a doctor's or master's degree
8 in marriage, family, and child counseling, marital and
9 family therapy, psychology, clinical psychology,
10 counseling psychology, counseling with an emphasis in
11 marriage, family, and child counseling, or social work
12 with an emphasis in clinical social work, obtained from a
13 school, college, or university accredited by the Western
14 Association of Schools and Colleges, the Northwest
15 Association of Secondary and Higher Schools, or an
16 essentially equivalent accrediting agency, as determined
17 by the board, or approved by the Council for Private
18 Postsecondary and Vocational Education, pursuant to any
19 of Sections 94770 to 94774, inclusive, of the Education
20 Code. For purposes of this chapter, the term "approved
21 by the Council for Private Postsecondary and Vocational
22 Education" shall not include temporary, conditional, or
23 any other type of interim approval. In order to qualify for
24 licensure pursuant to this subdivision, any doctor's or
25 master's degree program shall contain no less than 48
26 semester or 72 quarter units of instruction. The
27 instruction shall include no less than 12 semester units or
28 18 quarter units of coursework in the areas of marriage,
29 family, and child counseling, and marital and family
30 systems approaches to treatment.

31 The coursework shall include all of the following areas:

32 (1) The salient theories of a variety of
33 psychotherapeutic orientations directly related to
34 marriage, family, and child counseling, and marital and
35 family systems approaches to treatment.

36 (2) Theories of marriage and family therapy and how
37 they can be utilized in order to intervene therapeutically
38 with couples, families, adults, children, and groups.

39 (3) Developmental issues and life events from infancy
40 to old age and their effect upon individuals, couples, and

1 family relationships. This may include coursework that
2 focuses on specific family life events and the
3 psychological, psychotherapeutic, and health
4 implications that arise within couples and families,
5 including, but not limited to, childbirth, child rearing,
6 childhood, adolescence, adulthood, marriage, divorce,
7 blended families, stepparenting, and geropsychology.

8 (4) A variety of approaches to the treatment of
9 children.

10 The board may, by regulation, further define the
11 content requirements of required courses specified in this
12 subdivision.

13 (b) (1) In addition to the 12 semester or 18 quarter
14 units of coursework specified above, the doctor's or
15 master's degree program shall contain not less than six
16 semester or nine quarter units of supervised practicum in
17 applied psychotherapeutic techniques, assessment,
18 diagnosis, prognosis, and treatment of premarital, couple,
19 family, and child relationships, including dysfunctions,
20 healthy functioning, health promotion, and illness
21 prevention, in a supervised clinical placement that
22 provides supervised fieldwork experience within the
23 scope of practice of a marriage, family, and child
24 counselor.

25 (2) On and after January 1, 1995, the practicum shall
26 include a minimum of 150 hours of face-to-face
27 experience counseling individuals, couples, families, or
28 groups.

29 (3) (A) Supervised practicum hours, as specified in
30 this subdivision, shall be evaluated, accepted, and
31 credited as hours for trainee experience by the board.

32 (B) The practicum hours shall be considered as part of
33 the 48 semester or 72 quarter unit requirement.

34 (c) As an alternative to meeting the qualifications
35 specified in subdivision (a), the board shall accept as
36 equivalent degrees, those master's or doctor's degrees
37 granted by educational institutions whose degree
38 program is approved by the Commission on
39 Accreditation for Marriage and Family Therapy
40 Education.

1 (d) All applicants shall, in addition, complete the
2 coursework or training specified in Section 4980.41.

3 (e) All applicants shall be at least 18 years of age.

4 (f) All applicants shall have at least two years'
5 experience that meets the requirements of this chapter
6 in interpersonal relationships, marriage, family, and child
7 counseling and psychotherapy under the supervision of
8 a licensed marriage, family, and child counselor, licensed
9 clinical social worker, licensed psychologist, or a licensed
10 physician certified in psychiatry by the American Board
11 of Psychiatry and Neurology. Experience shall not be
12 gained under the supervision of an individual who has
13 provided therapeutic services to that applicant. For those
14 supervisory relationships in effect on or before
15 December 31, 1988, and which remain in continuous
16 effect thereafter, experience may be gained under the
17 supervision of a licensed physician who has completed a
18 residency in psychiatry. Any person supervising another
19 person pursuant to this subdivision shall have been
20 licensed or certified for at least two years prior to acting
21 as a supervisor, shall have a current and valid license that
22 is not under suspension or probation, and shall meet the
23 requirements established by regulations.

24 (g) The applicant shall pass a written examination and
25 an oral examination conducted by the board or its
26 designees.

27 (h) The applicant shall not have committed acts or
28 crimes constituting grounds for denial of licensure under
29 Section 480. The board shall not issue a registration or
30 license to any person who has been convicted of any
31 crime in the United States that involves sexual abuse of
32 children or who has been ordered to register as a mentally
33 disordered sex offender or the equivalent in another state
34 or territory.

35 (i) Applicants applying for licensure on or before
36 December 31, 1987, shall possess all of the qualifications
37 specified in subdivisions (e) to (h), inclusive, and shall
38 possess a doctor's or master's degree in marriage, family,
39 and child counseling, social work, clinical psychology,
40 counseling, counseling psychology, child development

1 and family studies, or a degree determined by the board
2 to be equivalent, obtained from a school, college, or
3 university accredited by the Western Association of
4 Schools and Colleges, the Northwest Association of
5 Secondary and Higher Schools, or an essentially
6 equivalent accrediting agency as determined by the
7 board.

8 (j) For applicants applying for a license pursuant to
9 subdivision (i), the board may make a determination that
10 an applicant's master's or doctor's degree is an equivalent
11 degree if it finds that the degree was issued upon
12 completion of a course of academic study primarily
13 designed to train persons as a marriage, family, and child
14 counselor. The course of study completed by the
15 applicant shall contain not less than 30 semester or 45
16 quarter units of coursework as follows: (1) human
17 biological, psychological, and social development, (2)
18 human sexuality, (3) psychopathology, (4) cross-cultural
19 mores and values, (5) theories of marriage, family, and
20 child counseling, (6) professional ethics and law, (7)
21 human communication, (8) research methodology, (9)
22 theories and applications of psychological testing, and
23 (10) not less than six semester or nine quarter units of
24 supervised practicum in applied psychotherapeutic
25 techniques, assessment, diagnosis, prognosis, and
26 treatment of premarital, family, and child relationship
27 dysfunctions. The applicant shall submit to the board
28 satisfactory written verification by the chief academic
29 officer of the accredited or approved school, or by an
30 authorized designee, that the applicant has successfully
31 completed courses, including the practicum required by
32 the board. The verification shall include, but need not be
33 limited to, descriptions of the completed courses. The
34 board may request further written verification of course
35 content and academic experience to determine that the
36 applicant's training and experience is equivalent to the
37 course of instruction required by this section.

38 (k) (1) An applicant applying for intern registration
39 who, prior to December 31, 1987, met the qualifications
40 for registration, but who failed to apply or qualify for

1 intern registration may be granted an intern registration
2 if the applicant meets all of the following criteria:

3 (A) The applicant possesses a doctor's or master's
4 degree in marriage, family, and child counseling, marital
5 and family therapy, psychology, clinical psychology,
6 counseling psychology, counseling with an emphasis in
7 marriage, family, and child counseling, or social work
8 with an emphasis in clinical social work obtained from a
9 school, college, or university currently conferring that
10 degree that, at the time the degree was conferred, was
11 accredited by the Western Association of Schools and
12 Colleges, and where the degree conferred was, at the
13 time it was conferred, specifically intended to satisfy the
14 educational requirements for licensure by the Board of
15 Behavioral Sciences.

16 (B) The applicant's degree and the course content of
17 the instruction underlying that degree have been
18 evaluated by the chief academic officer of a school,
19 college, or university accredited by the Western
20 Association of Schools and Colleges to determine the
21 extent to which the applicant's degree program satisfies
22 the current educational requirements for licensure, and
23 the chief academic officer certifies to the board the
24 amount and type of instruction needed to meet the
25 current requirements.

26 (C) The applicant completes a plan of instruction that
27 has been approved by the board at a school, college, or
28 university accredited by the Western Association of
29 Schools and Colleges that the chief academic officer of the
30 educational institution has, pursuant to subparagraph
31 (B), certified will meet the current educational
32 requirements when considered in conjunction with the
33 original degree.

34 (2) A person applying under this subdivision shall be
35 considered a trainee, as that term is defined in Section
36 4980.03, once he or she is enrolled to complete the
37 additional coursework necessary to meet the current
38 educational requirements for licensure.

39 (I) This section shall become operative on January 1,
40 1997.

1 SEC. 87. Section 4984.5 of the Business and
2 Professions Code is amended to read:

3 4984.5. The board shall report each month to the
4 Controller the amount and source of all revenue received
5 pursuant to this chapter and at the same time pay the
6 entire amount thereof into the State Treasury for credit
7 to the Behavioral Sciences Fund.

8 SEC. 88. Section 4984.6 of the Business and
9 Professions Code is amended to read:

10 4984.6. (a) The Behavioral Sciences Fund is
11 continuously appropriated, without regard to fiscal years,
12 to the Board of Behavioral Sciences for carrying out and
13 enforcing the provisions of this chapter.

14 (b) The board shall keep such records as will
15 reasonably ensure that funds expended in the
16 administration of each licensing or registration category
17 shall bear a reasonable relation to the revenue derived
18 from each category, and shall so notify the department no
19 later than May 31 of each year.

20 (c) Surpluses, if any, may be used in such a way so as
21 to bear a reasonable relation to the revenue derived from
22 each category, and may include, but not be limited to,
23 expenditures for education and research related to each
24 of the licensing or registration categories.

25 SEC. 89. Section 4987.5 of the Business and
26 Professions Code is amended to read:

27 4987.5. A marriage, family, and child counseling
28 corporation is a corporation which is registered with the
29 Board of Behavioral Sciences and has a currently
30 effective certificate of registration from the board
31 pursuant to the Moscone-Knox Professional Corporation
32 Act, as contained in Part 4 (commencing with Section
33 13400) of Division 3 of Title 1 of the Corporations Code,
34 and this article. Subject to all applicable statutes, rules
35 and regulations, such marriage, family, and child
36 counseling corporation is entitled to practice marriage,
37 family, and child counseling. With respect to a marriage,
38 family, and child counseling corporation, the
39 governmental agency referred to in the Moscone-Knox

1 Professional Corporation Act is the Board of Behavioral
2 Sciences.

3 SEC. 90. Section 4990.1 of the Business and
4 Professions Code is amended to read:

5 4990.1. There is in the Department of Consumer
6 Affairs a Board of Behavioral Sciences which consists of 11
7 members.

8 This section shall become inoperative on July 1, 1999,
9 and, as of January 1, 2000, is repealed, unless a later
10 enacted statute, which becomes effective on or before
11 January 1, 2000, deletes or extends the dates on which it
12 becomes inoperative and is repealed.

13 SEC. 91. Section 4990.2 of the Business and
14 Professions Code is amended to read:

15 4990.2. Wherever “Board of Social Work Examiners of
16 the State of California” or “Social Worker and Marriage
17 Counselor Qualifications Board of the State of California”
18 is used in any law or regulations of this state it shall mean
19 the Board of Behavioral Sciences.

20 SEC. 92. Section 4990.15 of the Business and
21 Professions Code is amended to read:

22 4990.15. The board shall have and use a seal bearing
23 the words “The Board of Behavioral Sciences,” and shall
24 otherwise conform to Section 107.5.

25 SEC. 93. Section 4990.17 of the Business and
26 Professions Code is repealed.

27 SEC. 94. Section 4994 of the Business and Professions
28 Code is amended to read:

29 4994. Notwithstanding Section 13340 of the
30 Government Code and except as provided in Section
31 4984.6, all moneys in the Behavioral Sciences Fund are
32 continuously appropriated to the board, to be expended
33 by it for the purposes of the programs under its
34 jurisdiction.

35 SEC. 95. Section 4996.3 of the Business and
36 Professions Code is amended to read:

37 4996.3. (a) Each application for examination
38 received on or after January 1, 1996, shall be accompanied
39 by an application fee of one hundred dollars (\$100) and
40 a fee of up to one hundred fifty dollars (\$150), including

1 the examination fee and related administrative costs for
2 the written examination and two hundred dollars (\$200)
3 for the oral examination, that shall be deposited by the
4 board into the State Treasury to the credit of the
5 Behavioral Sciences Fund.

6 (b) The fee for rescoring a written examination shall
7 be twenty dollars (\$20). The fee for an appeal of an oral
8 examination shall be one hundred dollars (\$100).

9 (c) The fee for issuance of the initial license shall be a
10 maximum of one hundred fifty-five dollars (\$155).

11 SEC. 96. Section 4996.6 of the Business and
12 Professions Code is amended to read:

13 4996.6. (a) The renewal fee for licenses that expire
14 on or after January 1, 1996, shall be a maximum of one
15 hundred fifty-five dollars (\$155) and shall be collected on
16 a biennial basis by the board in accordance with Section
17 152.6. The fees shall be deposited in the State Treasury to
18 the credit of the Behavioral Sciences Fund.

19 (b) If the license is renewed more than 30 days after
20 its expiration, the licensee shall, as a condition precedent
21 to renewal, also pay a delinquency fee of seventy-five
22 dollars (\$75).

23 Any person who permits his or her license to become
24 delinquent may have it restored only upon the payment
25 of all fees that he or she would have paid if the license had
26 not become delinquent, plus the payment of any and all
27 delinquency fees.

28 (c) The fee for issuance of any replacement
29 registration, license, or certificate shall be twenty dollars
30 (\$20).

31 (d) The fee for issuance of a certificate or letter of good
32 standing shall be twenty-five dollars (\$25).

33 SEC. 97. Section 4998 of the Business and Professions
34 Code is amended to read:

35 4998. "Licensed clinical social workers corporation" is
36 a corporation that is registered with the Board of
37 Behavioral Sciences and has a currently effective
38 certificate of registration from the board pursuant to the
39 Moscone-Knox Professional Corporation Act and this
40 article. Subject to all applicable statutes, rules, and

1 regulations, the licensed clinical social workers
2 corporation is entitled to practice clinical social work.
3 With respect to a licensed clinical social workers
4 corporation, the governmental agency referred to in the
5 Moscone-Knox Professional Corporation Act is the Board
6 of Behavioral Sciences.

7 SEC. 98. *Section 6795.1 of the Business and*
8 *Professions Code is amended to read:*

9 6795.1. Within 60 to 90 days prior to the expiration of
10 a certificate of registration or certificate of authority, the
11 board shall mail to the registrant or authority holder a
12 notice of the pending expiration. That notice shall include
13 application forms for renewal. If there is no response by
14 the expiration date, the board shall provide a second
15 notice, ~~by certified or registered mail,~~ to the registrant's
16 or authority holder's address.

17 SEC. 98.5. *Section 8516 of the Business and*
18 *Professions Code is amended to read:*

19 8516. (a) This section, and Section 8519, apply only to
20 wood destroying pests or organisms, but do not apply to
21 work conducted pursuant to Section 8516.1.

22 (b) No registered company or licensee shall
23 commence work on a contract, or sign, issue, or deliver
24 any documents expressing an opinion or statement
25 relating to the absence or presence of wood destroying
26 pests or organisms until an inspection has been made by
27 a licensed Branch 3 field representative or operator. The
28 registered company shall retain for three years all field
29 reports from which a verbal or written estimate of or
30 solutions for work are made. A written inspection report
31 conforming to this section and on a form prescribed by
32 the board shall be prepared and delivered to the person
33 requesting the inspection or to the person's designated
34 agent. A copy of each report shall be filed with the board
35 at the time the report is delivered or not later than 10
36 working days after the date the inspection is commenced,
37 except an inspection report prepared for use by an
38 attorney for litigation is not required to be filed with the
39 board. The report shall be delivered to the person
40 requesting the inspection, or to the person's designated

1 agent, before work is commenced. The following shall be
2 set forth in the report:

3 (1) The date of the inspection and the name of the
4 licensee making the inspection.

5 (2) The name and address of the person or firm
6 ordering the report.

7 (3) The name and address of any person who is a party
8 in interest.

9 (4) The address or location of the property.

10 (5) A general description of the building or premises
11 inspected.

12 (6) A foundation diagram or sketch of the structure or
13 structures or portions of the structure or structures
14 inspected, indicating thereon the approximate location of
15 any infested or infected areas evident, and the parts of the
16 structure where conditions which would ordinarily
17 subject those parts to attack by wood destroying pests or
18 organisms exist.

19 (7) Information regarding the substructure,
20 foundation walls and footings, porches, patios and steps,
21 air vents, abutments, attic spaces, roof framing that
22 includes the eaves, rafters, fascias, exposed timbers,
23 exposed sheathing, ceiling joists, and attic walls, or other
24 parts subject to attack by wood destroying pests or
25 organisms. Conditions usually deemed likely to lead to
26 infestation or infection, such as earth wood contacts,
27 excessive cellulose debris, faulty grade levels, excessive
28 moisture conditions, evidence of roof leaks, and
29 insufficient ventilation are to be reported.

30 (8) One of the following statements, as appropriate,
31 printed in bold type:

32 (A) The exterior surface of the roof was not inspected.
33 If you want the water tightness of the roof determined,
34 you should contact a roofing contractor who is licensed by
35 the Contractors' State License Board.

36 (B) The exterior surface of the roof was inspected to
37 determine whether or not wood destroying pests or
38 organisms are present.

39 (9) Indication or description of any areas that are
40 inaccessible or not inspected with recommendation for



1 further inspection if practicable. If, after the report has
2 been made in compliance with this section, authority is
3 given later to open inaccessible areas, a supplemental
4 report on conditions in these areas shall be made.

5 (10) Recommendations for corrective measures.

6 (11) Information regarding the pesticide or pesticides
7 to be used for their control as set forth in subdivision (a)
8 of Section 8538.

9 (12) The inspection report shall clearly disclose that if
10 requested by the person ordering the original report, a
11 reinspection of the structure will be performed if an
12 estimate or bid for making repairs was given with the
13 original inspection report, or thereafter.

14 (13) The inspection report shall contain the following
15 statement, printed in boldface type:

16 “NOTICE: The Structural Pest Control Board
17 encourages competitive business practices among
18 registered companies. Reports on this structure prepared
19 by various registered companies should list the same
20 findings (i.e. termite infestations, termite damage,
21 fungus damage, etc.). However, recommendations to
22 correct these findings may vary from company to
23 company. Therefore, you may wish to seek a second
24 opinion since there may be alternative methods of
25 correcting the findings listed on this report that may be
26 less costly.”

27 An estimate or bid for repairs shall be given separately
28 allocating the costs to perform each and every
29 recommendation for corrective measures as specified in
30 subdivision (c) with the original inspection report if the
31 person who ordered the original inspection report so
32 requests, and if the registered company is regularly in the
33 business of performing corrective measures.

34 If no estimate or bid was given with the original
35 inspection report, or thereafter, then the registered
36 company shall not be required to perform a reinspection.

37 A reinspection shall be an inspection of those items
38 previously listed on an original report to determine if the
39 recommendations have been completed. Each
40 reinspection shall be reported on an original inspection

1 report form and shall be labeled “Reinspection” in capital
2 letters by rubber stamp or typewritten. Each
3 reinspection shall also identify the original report by date
4 and stamp numbers.

5 After four months from an original inspection, all
6 inspections shall be original inspections and not
7 reinspections.

8 Any reinspection shall be performed for not more than
9 the price of the registered company’s original inspection
10 price and shall be completed within 10 working days after
11 a reinspection has been ordered.

12 (c) At the time a report is ordered, the registered
13 company or licensee shall inform the person or entity
14 ordering the report, that a separated report is available
15 pursuant to this subdivision. If a separated report is
16 requested at the time the inspection report is ordered,
17 the registered company or licensee shall separately
18 identify on the report each recommendation for
19 corrective measures as follows:

20 (1) The infestation or infection that is evident.

21 (2) The conditions that are present that are deemed
22 likely to lead to infestation or infection.

23 If a registered company or licensee fails to inform as
24 required by this subdivision and a dispute arises, or if any
25 other dispute arises as to whether this subdivision has
26 been complied with, a separated report shall be provided
27 within 24 hours of the request but, in no event, later than
28 the next business day, and at no additional cost.

29 (d) When a corrective condition is identified, either as
30 paragraph (1) or (2) of subdivision (c), and the
31 responsible party, as negotiated between the buyer and
32 the seller, chooses not to correct those conditions, the
33 registered company or licensee shall not be liable for
34 damages resulting from a failure to correct those
35 conditions or subject to any disciplinary action by the
36 board. Nothing in this subdivision, however, shall relieve
37 a registered company or a licensee of any liability
38 resulting from negligence, fraud, dishonest dealing, other
39 violations pursuant to this chapter, or contractual

1 obligations between the registered company or licensee
2 and the responsible parties.

3 (e) The inspection report form prescribed by the
4 board shall separately identify the infestation or infection
5 that is evident and the conditions that are present that are
6 deemed likely to lead to infestation or infection. If a
7 separated form is requested, the form shall explain the
8 infestation or infection that is evident and the conditions
9 that are present that are deemed likely to lead to
10 infestation or infection and the difference between those
11 conditions. In no event, however, shall conditions
12 deemed likely to lead to infestation or infection be
13 characterized as actual “defects” or as actual “active”
14 infestations or infections or in need of correction as a
15 precondition to issuing a certification pursuant to Section
16 8519.

17 (f) The report and any contract entered into shall also
18 state specifically when any guarantee for the work is
19 made, and if so, the specific terms of the guarantee and
20 the period of time for which the guarantee shall be in
21 effect.

22 (g) Control service is defined as the regular
23 reinspection of a property after a report has been made
24 in compliance with this section and such corrections as
25 have been agreed upon have been completed. Under a
26 control service agreement a registered company shall
27 refer to the original report and contract in a manner as
28 to identify them clearly, and the report shall be assumed
29 to be a true report of conditions as originally issued,
30 except it may be modified after a control service
31 inspection. A registered company is not required to issue
32 a report as outlined in paragraphs (1) to (11), inclusive,
33 of subdivision (b) after each control service inspection. If
34 after control service inspection, no modification of the
35 original report is made in writing, then it will be assumed
36 that conditions are as originally reported. A control
37 service contract shall state specifically the particular
38 wood destroying pests or organisms and the portions of
39 the buildings or structures covered by the contract.

1 (h) A registered company or licensee may enter into
2 and maintain a control service agreement provided the
3 following requirements are met:

4 (1) The control service agreement shall be in writing,
5 signed by both parties, and shall specifically include the
6 following:

7 (A) The wood destroying pests and organisms that
8 could infest and infect the structure.

9 (B) The wood destroying pests and organisms covered
10 by the control service agreement. Any wood destroying
11 pest or organism that is not covered must be specifically
12 listed.

13 (C) The type and manner of treatment to be used to
14 correct the infestations or infections.

15 (D) The structures or buildings, or portions thereof,
16 covered by the agreement, including a statement
17 specifying whether the coverage for purposes of periodic
18 inspections is limited or full. Any exclusions from those
19 described in the original report must be specifically listed.

20 (E) A reference to the original inspection report and
21 agreement.

22 (F) The frequency of the inspections to be provided,
23 the fee to be charged for each renewal, and the duration
24 of the agreement.

25 (G) Whether the fee includes structural repairs.

26 (H) If the services provided are guaranteed, and, if so,
27 the terms of the guarantee.

28 (I) A statement that all corrections of infestations or
29 infections covered by the control service agreement shall
30 be completed within six months of discovery, unless
31 otherwise agreed to in writing by both parties.

32 (2) Inspections made pursuant to a control service
33 agreement shall be conducted by a Branch 3 licensee.
34 Section 8506.1 does not modify this provision.

35 (3) A full inspection of the property covered by the
36 control service agreement shall be conducted and a
37 report filed pursuant to subdivision (b) at least once
38 every three years from the date that the agreement was
39 entered into, unless the consumer cancels the contract

1 within three years from the date the agreement was
2 entered into.

3 (4) A written report shall be required for the
4 correction of any infestation or infection unless all of the
5 following conditions are met:

6 (A) The infestation or infection has been previously
7 reported.

8 (B) The infestation or infection is covered by the
9 control service agreement.

10 (C) There is no additional charge for correcting the
11 infestation or infection.

12 (D) Correction of the infestation or infection takes
13 place within 45 days of its discovery.

14 (E) Correction of the infestation or infection does not
15 include fumigation.

16 (5) All notice requirements pursuant to Section 8538
17 shall apply to all pesticide treatments conducted under
18 control service agreements.

19 (6) For purposes of this section, “control service
20 agreement” means any agreement, including extended
21 warranties, to have a licensee conduct over a period of
22 time regular inspections and other activities related to
23 the control or eradication of wood destroying pests and
24 organisms.

25 (i) All work recommended by a registered company,
26 where an estimate or bid for making repairs was given
27 with the original inspection report, or thereafter, shall be
28 recorded on this report or a separate work agreement and
29 shall specify a price for each recommendation. This
30 information shall be provided to the person requesting
31 the inspection, and shall be retained by the registered
32 company with the inspection report copy for three years.

33 SEC. 99. Section 8522 of the Business and Professions
34 Code is amended to read:

35 8522. Members of the board shall be appointed for a
36 term of four years, subject to removal by the appointing
37 power at his or her pleasure.

38 Vacancies shall be filled by the appointing power for
39 the unexpired term.

1 Each member shall hold office until the appointment
2 and qualification of his or her successor or until one year
3 shall have elapsed since the expiration of the term for
4 which he or she was appointed, whichever first occurs. No
5 person shall serve as a member of the board for more than
6 two consecutive terms.

7 Each appointment shall be for a four-year term
8 expiring June 1 of the fourth year following the year in
9 which the previous term expires.

10 The Governor shall appoint two of the public members
11 and the two licensed members qualified as provided in
12 Section 8521. The Senate Rules Committee and the
13 Speaker of the Assembly shall each appoint a public
14 member, and their initial appointment shall be made to
15 fill, respectively, the first and second public member
16 vacancies which occur on or after January 1, 1983.

17 The Governor shall appoint the member who is a
18 licentiate of the board provided at the 1983 portion of the
19 1983–84 Regular Session of the Legislature on or before
20 January 15, 1984, and that member's term shall expire on
21 January 15, 1988. Each appointment thereafter shall be
22 for a four-year term expiring on January 15th.

23 SEC. 100. Section 8550 of the Business and Professions
24 Code is amended to read:

25 8550. (a) It is unlawful for any individual to engage
26 or offer to engage in the business of, act in the capacity
27 of, or advertise himself or herself as, or assume to act as,
28 an operator or a field representative or an applicator, or
29 to engage or offer to engage in the practice of structural
30 pest control, unless he or she is licensed under this
31 chapter. For purposes of this subdivision, "engage in the
32 practice of structural pest control" shall not include price
33 quotations given by unlicensed employees of a registered
34 company in response to a request for that information.

35 (b) It is unlawful for any firm, partnership,
36 corporation, association, or other organization or
37 combination thereof to engage or offer to engage in the
38 practice of structural pest control, unless registered in
39 accordance with Article 6 (commencing with Section
40 8610).

1 SEC. 101. Section 8564.5 of the Business and
2 Professions Code is amended to read:

3 8564.5. (a) Any individual 18 years of age or older
4 may apply for a license as applicator.

5 (b) The board shall ascertain by written examination
6 that an applicant for a license as applicator in Branch 2 or
7 Branch 3 has sufficient knowledge in pesticide
8 equipment, pesticide mixing and formulation, pesticide
9 application procedures and pesticide label directions.

10 (c) The board shall ascertain by written examination
11 that an applicant for a license as applicator in wood roof
12 cleaning and treatment has sufficient knowledge of wood
13 preservative application equipment, wood preservative
14 application procedures, mixing and formulation and
15 wood preservative label directions.

16 (d) Passage of the written examination authorizes an
17 individual to apply any chemical substance in Branch 2 or
18 Branch 3 or any wood preservative as part of a roof
19 restoration process.

20 (e) The board may charge a fee for any examination
21 required by this section in an amount sufficient to cover
22 the cost of administering the examination, provided,
23 however, that the fee shall not exceed fifteen dollars
24 (\$15).

25 (f) Nothing in this chapter shall prohibit an applicator,
26 authorized to apply any chemical substance in Branch 2
27 or Branch 3 or wood preservative as part of a roof
28 restoration process before January 1, 1995, from acting as
29 an applicator pursuant to that authorization. Upon
30 expiration of the authorization, an applicator's license
31 shall be required.

32 SEC. 102. Section 8614 of the Business and Professions
33 Code is amended to read:

34 8614. Any person, whether or not a party to a real
35 property transaction, has a right to request and, upon
36 payment of the required fee, to obtain directly from the
37 board a certified copy of all inspection reports and
38 completion notices prepared and filed by any structural
39 pest control registered company on a particular property
40 during the preceding two years. Notice of this right shall

1 be prominently disclosed on every inspection report and
2 work completion notice.

3 SEC. 103. Section 8617 of the Business and Professions
4 Code is amended to read:

5 8617. (a) The board or county agricultural
6 commissioners, when acting pursuant to Section 8616.4,
7 may suspend the right of a structural pest control licensee
8 or registered company to work in a county for up to three
9 working days or, for a licensee, registered company, or an
10 unlicensed individual acting as a licensee, may levy a fine
11 up to one thousand dollars (\$1,000) for each violation of
12 this chapter, or any regulations adopted pursuant to this
13 chapter, or Chapter 2 (commencing with Section 12751),
14 Chapter 3 (commencing with Section 14001), Chapter 3.5
15 (commencing with Section 14101), or Chapter 7
16 (commencing with Section 15201) of Division 7 of the
17 Food and Agricultural Code, or any regulations adopted
18 pursuant to those chapters, relating to economic poisons.
19 Fines collected shall be paid to the Education and
20 Enforcement Account in the Structural Pest Control
21 Education and Enforcement Fund. Suspension may
22 include all or part of the registered company's business
23 within the county based on the nature of the violation, but
24 shall, whenever possible, be restricted to that portion of
25 a registered company's business in a county that was in
26 violation.

27 (b) Before a suspension action is taken or a fine levied,
28 the person charged with the violation shall receive notice
29 of the nature of the violation and shall be given an
30 opportunity to be heard, including, the right to review
31 the commissioner's evidence and a right to present
32 evidence on his or her own behalf.

33 (c) The person may appeal a fine or suspension to the
34 Disciplinary Review Committee and shall be subject to
35 the procedures in Section 8662.

36 (d) If a suspension or fine is ordered, it may not take
37 effect until 20 days after the date of the decision if no
38 appeal is filed. If an appeal pursuant to Section 8662 is
39 filed, the order shall be stayed until 20 days after the
40 committee has ruled on the appeal.

1 (e) Failure of a licensee or registered company to pay
2 a fine within 30 days of the date of assessment or to comply
3 with the order of suspension, unless the citation is being
4 appealed, may result in disciplinary action being taken by
5 the board.

6 Where a citation containing a fine is issued to a licensee
7 and it is not contested or the time to appeal the citation
8 has expired and the fine is not paid, the full amount of the
9 assessed fine shall be added to the fee for renewal of that
10 license. A license shall not be renewed without payment
11 of the renewal fee and fine.

12 Where a citation containing a fine is issued to a
13 registered company and it is not contested or the time to
14 appeal the citation has expired and the fine is not paid, the
15 board shall not sell to the registered company any
16 inspection stamps, notice of completion stamps, or
17 pesticide use stamps until the assessed fine has been paid.

18 (f) Once final action pursuant to this section is taken,
19 no other administrative or civil action may be taken by
20 any state governmental agency for the same violation.
21 However, action taken pursuant to this section may be
22 used by the board as evidence of prior discipline, and
23 multiple local actions may be the basis for statewide
24 disciplinary action by the board pursuant to Section 8620.
25 A certified copy of the order of suspension or fine issued
26 pursuant to this section or Section 8662 shall constitute
27 conclusive evidence of the occurrence of the violation.

28 SEC. 104. Section 8622 of the Business and Professions
29 Code is amended to read:

30 8622. When a complaint is accepted for investigation
31 of a registered company, the board, through an
32 authorized representative, may inspect any or all
33 properties on which a report has been issued pursuant to
34 Section 8516 or a notice of completion has been issued
35 pursuant to Section 8518 by such registered company to
36 determine compliance with the provisions of this chapter
37 and the rules and regulations issued thereunder. If the
38 board determines the property or properties are not in
39 compliance, a notice shall be sent to the registered
40 company so stating. The registered company shall have

1 30 days from the receipt of the notice to bring such
2 property into compliance, and it shall submit a new
3 original report or completion notice or both and an
4 inspection fee of not more than one hundred twenty-five
5 dollars (\$125) for each property inspected. If a
6 subsequent reinspection is necessary, pursuant to the
7 board's review of the new original report or notice or
8 both, a commensurate reinspection fee shall also be
9 charged. If the board's authorized representative makes
10 no determination or determines the property is in
11 compliance, no inspection fee shall be charged.

12 The notice sent to the registered company shall inform
13 the registered company that if it desires a hearing to
14 contest such finding of noncompliance, the hearing shall
15 be requested by written notice to the board within 20
16 days of receipt of the notice of noncompliance from the
17 board. Where a hearing is not requested pursuant to this
18 section, payment of any assessment shall not constitute an
19 admission of any noncompliance charged.

20 SEC. 105. Section 8656 is added to the Business and
21 Professions Code, to read:

22 8656. In addition to the remedies provided for in
23 Section 125.9, when the licensee who is a registered
24 company has failed to pay the fine assessed pursuant to a
25 citation within 30 days of the date of assessment, unless
26 the citation is being appealed, the board shall not sell to
27 the registered company any inspection stamps, notice of
28 completion stamps, or pesticide use stamps until the
29 assessed fine has been paid.

30 SEC. 106. *Section 8666 is added to the Business and*
31 *Professions Code, to read:*

32 8666. *It shall be unlawful for any licensee under this*
33 *chapter to recommend or to perform any pest control*
34 *corrective work under any contract or agreement that*
35 *the licensee knows or has reason to know is in excess of*
36 *that required to eliminate the condition for which the*
37 *licensee was employed.*

38 *A violation of this section is a public offense and is*
39 *punishable upon the first conviction by imprisonment in*
40 *the county jail for not more than one year, or by a fine not*

1 *to exceed ten thousand dollars (\$10,000), or by both that*
2 *imprisonment and fine. A second or subsequent*
3 *conviction is punishable by imprisonment in the state*
4 *prison.*

5 SEC. 106.5. Section 8675 of the Business and
6 Professions Code is amended to read:

7 8675. The delinquent penalty for a renewal of any
8 license issued under this chapter applied for after the
9 expiration date of the license shall be 50 percent of the fee
10 required for the renewal of the license applied for before
11 the expiration date but not more than one hundred
12 dollars (\$100).

13 SEC. 107. No reimbursement is required by this act
14 pursuant to Section 6 of Article XIII B of the California
15 Constitution because the only costs that may be incurred
16 by a local agency or school district will be incurred
17 because this act creates a new crime or infraction,
18 eliminates a crime or infraction, or changes the penalty
19 for a crime or infraction, within the meaning of Section
20 17556 of the Government Code, or changes the definition
21 of a crime within the meaning of Section 6 of Article
22 XIII B of the California Constitution.

23 Notwithstanding Section 17580 of the Government
24 Code, unless otherwise specified, the provisions of this act
25 shall become operative on the same date that the act
26 takes effect pursuant to the California Constitution.